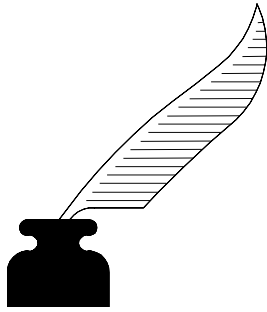


# *Limited Practice Board*

*APR 12*

## *RULES AND REGULATIONS*

Office of the Administrator for the Courts  
PO Box 41170  
Olympia WA 98504-1170  
(360) 753-3365 FAX (360) 586-8869



Limited Practice Board  
Office of the Administrator for the Courts  
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# *ADMISSION TO PRACTICE RULE 12*

Rules and Regulations for Limited Practice Officers

*January 1999*

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## COURT RULE APR 12

### LIMITED PRACTICE RULE FOR CLOSING OFFICERS

- (a) Purpose. The purpose of this rule is to authorize certain lay persons to select, prepare, and complete legal documents incident to the closing of real estate and personal property transactions and to prescribe the conditions of and limitations upon such activities.
- (b) Limited Practice Board.
  - (1) Establishment. There is hereby established a Limited Practice Board (referred to herein as the "Board") consisting of nine members to be appointed by the Supreme Court of the state of Washington. Not less than four of the members of the Board must be admitted to the practice of law in the state of Washington. Four of the members of the Board shall be business representatives, one each of the following four industries: escrow, lending, title insurance, and real estate. Of the members first appointed, two shall be appointed for 1 year, three for 2 years, two for 3 years, and two for 4 years. Thereafter, appointments shall be for 4-year terms. No member may serve more than two consecutive terms. Terms shall end December 31 of the applicable year, except that no term shall end prior to December 31, 1984. The Supreme Court shall designate one of the members of the Board as chairperson.
  - (2) Duties and Powers.
    - (i) Applications. The Board shall accept and process applications for certification under this rule.
    - (ii) Examination. The Board shall conduct the examination for certification required by this rule. The examination shall consist of such questions as the Board may select on such subjects as may be listed by the Board and approved by the Supreme Court. The Board shall establish the number of examinations to be given each year and the dates of the examinations.

- (iii) Investigation and recommendation for admission. The Board shall notify each applicant of the results of the examination and shall recommend to the Supreme Court the admission or rejection of each applicant. The Supreme Court shall enter an order admitting to limited practice those applicants it deems qualified, conditioned upon each applicant taking an oath that he or she will comply with this rule and paying to the Board the annual fee for the current year. Upon the entry of such order, the taking and filing of the oath, and payment of the annual fee, an applicant shall be enrolled as a certified closing officer and shall be entitled to perform those services permitted by this rule. The oath must be taken before a court of record in the state of Washington.
- (iv) Education. The Board shall approve individual courses and may accredit all or portions of the entire educational program of a given organization which, in the Board's judgment, will satisfy the educational requirement of these rules. It shall determine the number of credit hours to be allowed for each such course. It shall encourage the offering of such courses and programs by established organizations, whether offered within or outside this state.
- (v) Grievances and discipline. The Board shall adopt hearing and appeal procedures and shall hear complaints of persons aggrieved by the failure of certified closing officers to comply with the requirements of this rule. Upon a finding by the Board that a certified closing officer has failed to comply in any material manner with the requirements of this rule, the Board shall take such action as may be appropriate to the degree of the violation, considering also the number of violations and the previous disciplinary record of the closing officer. Disciplinary action may include admonitions, letters of censure, reprimands, and recommendations to the Supreme Court for the suspension or revocation of the closing officer's certification.
- (vi) Investigation. Upon receipt of a complaint that a closing officer has violated the provisions of this rule and in other appropriate circumstances, the Board may investigate the conduct of the closing officer to determine whether the closing officer has violated the requirements, conditions, or limitations imposed by this rule.
- (vii) Approval of forms. The Board shall approve standard forms for use by closing officers in the performance of services authorized by this rule.
- (viii) Fees. The Board shall establish and collect examination and annual fees in such amounts as are necessary to carry out the duties and responsibilities of the Board.

- (ix) Regulations. The Board shall propose regulations to implement the provisions of this rule for adoption by the Supreme Court.
  - (x) Interim certification and approval of forms. The Board may adopt regulations permitting interim certification of closing officers and approval of forms pending adoption of final regulations and the initial certification of successful applicants pursuant to this rule, provided that this interim certification shall expire 18 months from the date of adoption of this rule.
- (3) Expenses of the Board. Members of the Board shall not be compensated for their services. For their actual and necessary expenses incurred in the performance of their duties, they shall be reimbursed by the Board in a manner consistent with its rules. The Board may contract with agencies or organizations to carry out its administrative functions. All such expenses shall be paid pursuant to a budget submitted to and approved by the Supreme Court on an annual basis. Funds accumulated from examination fees, annual fees, and other revenues shall be used to defray all expenses of the Board.
- (c) Certification Requirements. An applicant for certification as a closing officer shall:
- (1) Age. Be at least 18 years of age.
  - (2) Moral Character. Be of good moral character.
  - (3) Examination. Satisfy the examination requirements established by the Board.
  - (4) Oath. Execute under oath and file with the Board two copies of his or her application, one of which shall be in the applicant's own handwriting, in such form as may be required by the Board. Additional proof of any fact stated in the application may be required by the Board. In the event of the failure or refusal of an applicant to furnish any information or proof, or to answer any interrogatories of the Board pertinent to the pending application, the Board may deny the application. The form of the application shall be prescribed by the Board by regulation adopted pursuant to this rule.
  - (5) Examination Fee. Pay, upon the filing of an application, the examination fee.
- (d) Scope of Practice Authorized by Limited Practice Rule. Notwithstanding any provision of any other rule to the contrary, a person certified as a closing officer under this rule may select, prepare, and complete documents in a form previously approved by the Board for use in closing a loan, extension of credit, sale, or other transfer of real or personal property. Such documents shall be limited to deeds, promissory notes, guaranties, deeds of trust, reconveyances, mortgages, satisfactions, security agreements, releases, Uniform Commercial Code documents, assignments, contracts, real estate excise tax affidavits, and bills of sale. Other documents may be from time to time approved by the Board.

- (e) Conditions Under Which Certified Closing Officers May Prepare and Complete Documents. Certified closing officers may render services authorized by this rule only under the following conditions and with the following limitations:

- (1) Agreement of the Parties. Prior to the performance of the services, all parties to the transaction shall have agreed in writing to the basic terms and conditions of the transaction.
- (2) Disclosures to the Parties. The closing officer shall advise the parties of the limitations of the services rendered pursuant to this rule and shall further advise them in writing:
  - (i) that the closing officer is not acting as the advocate or representative of either of the parties;
  - (ii) that the documents prepared by the closing officer will affect the legal rights of the parties;
  - (iii) that the parties' interests in the documents may differ;
  - (iv) that the parties have a right to be represented by lawyers of their own selection; and
  - (v) that the closing officer cannot give legal advice as to the manner in which the documents affect the parties.

- (f) Continuing Certification Requirements.

- (1) Continuing Education. Each certified closing officer must complete a minimum number of credit hours of approved or accredited education, as prescribed by regulation of the Board, during each calendar year after the effective date of this rule in courses certified by the Board to be appropriate for study by closing officers providing services pursuant to this rule; provided, that the certified closing officer shall not be required to comply with this subsection during the calendar year in which he or she is initially certified.
- (2) Financial Responsibility. Each certified closing officer or employer thereof shall show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted by this rule. The proof of financial responsibility shall be in such form and in such amount as the Board may by regulation prescribe.
- (3) Annual Fee. Each certified closing officer must pay the annual fee established by the Board.



- (g) Existing Law Unchanged. This rule shall in no way expand, narrow, or affect existing law in the following areas:
- (1) The fiduciary relationship between a certified closing officer and his or her customers or clients;
  - (2) Conflicts of interest that may arise between the certified closing officer and a client or customer;
  - (3) The right to act as one's own attorney under the pro se exception to the unauthorized practice of law, including but not limited to the right of a lender to prepare documents conveying or granting title to property in which it is taking a security interest;
  - (4) The lack of authority of a certified closing officer to give legal advice without being licensed to practice law;
  - (5) The standard of care which a certified closing officer must practice when carrying out the functions permitted by this rule.
- (h) Treatment of Funds Received Incident to the Closing of Real or Personal Property Transaction. Except to the extent certified closing officers are not required to be employed in the selection, preparation and completion of closing documents under APR 12(g)(3), persons admitted to practice under this rule shall comply with APR 12.1 regarding the manner in which they identify, maintain and disburse funds received incidental to the closing of real and personal property transactions.

## **APR 12.1**

### **PRESERVING IDENTITY OF FUNDS AND PROPERTY IN TRANSACTIONS CLOSED BY LIMITED PRACTICE OFFICERS**

- (a) For the purposes of this rule, the following definitions apply:

“Certified Closing Officer” shall mean an officer licensed in accordance with the procedures set forth in APR 12 and who has maintained his or her certification in accordance with the rules and regulations of the Limited Practice Board.

“Closing Firm” shall mean any bank, depository institution, escrow agent, title company, or other business, whether public or private, that employs or contracts for the services of a certified closing officer for the purpose of providing real or personal property closing services.

“Party” shall mean any person, corporation, partnership, or other entity, including their authorized representatives, having an interest in the real or personal property that is the subject of the transaction being closed by the certified closing officer.

“Transaction” shall mean any real or personal property conveyance requiring the involvement of an attorney or certified closing officer to select, prepare or complete documents for the purpose of closing a loan, extension of credit, sale or other transfer of title to or interest in real or personal property.

- (b) For all transactions in which a certified closing officer has prepared documents under the authorization set forth in rule 12(d), the certified closing officer shall insure that all funds received by the closing firm incidental to the closing of the transaction, including advances for costs and expenses, shall be deposited into one or more identifiable interest-bearing trust accounts maintained as set forth in section (d), and no funds belonging to the certified closing officer or the closing firm shall be deposited therein except as follows:
- (1) Funds reasonably sufficient to pay bank charges may be deposited therein;
  - (2) Funds belonging in part to the parties to the real estate or personal property transaction that is being closed and in part presently or potentially to the certified closing officer or the closing firm must be deposited therein, but the portion belonging to the certified closing officer or the closing firm may be withdrawn when due unless the right of the certified closing officer or the closing firm to receive it is disputed by the parties to the real or personal property transaction, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

- (c) Each trust account referred to in section (b) shall be an interest-bearing trust account in any bank, credit union or savings and loan association, selected by a certified closing officer or the closing firm by which he or she is employed to perform closing services in the exercise of ordinary prudence, authorized by federal or state law to do business in Washington and insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or the Washington Credit Union Share Guaranty Association, or which is a qualified public depository as defined in RCW 39.58.010(2), or which bank, credit union, savings and loan association or qualified public depository has filed an agreement with the Disciplinary Board pursuant to rule 13.4 of the Rules for Lawyer Discipline. Interest-bearing trust funds shall be placed in accounts in which withdrawals or transfers can be made without delay when such funds are required, subject only to any notice period which the depository institution is required to reserve by law or regulation. Such account, if established in the name of the closing firm, must reference the name(s) of the certified closing officer(s) whose services are engaged in connection with the real or personal property closing activities of the closing firm.
- (1) A certified closing officer who receives or whose closing firm receives funds associated with a transaction being closed by that officer shall maintain a pooled interest-bearing trust account for deposit of funds that are nominal in amount or expected to be held for a short period of time. The interest accruing on this account, net of reasonable check and deposit processing charges which shall only include items deposited charge, monthly maintenance fee, per item check charge, and per deposit charge, shall be paid to The Legal Foundation of Washington, as established by the Supreme Court of Washington. All other fees and transaction costs shall be paid by the certified closing officer or the closing firm by which he or she is employed to perform closing services. A certified closing officer or closing firm may, but shall not be required to, notify the parties to the transaction of the intended use of such funds.
- (2) All funds received from the parties to a transaction being closed by the certified closing officer, whether received by the certified closing officer or the closing firm, shall be deposited in the account specified in subsection (1) unless they are deposited in:
- (i) a separate interest-bearing trust account containing funds pertaining to a specific real or personal property closing if directed by written agreement signed by the parties to the transaction and specifying the manner of distribution of accumulated interest to the parties to the transaction;
  - (ii) a separate interest-bearing trust account for a particular party to a real or personal property closing on which accumulated interest will be paid to that party; or

- (iii) a pooled interest-bearing account with subaccounting that will provide for computation of interest earned by each party's funds and the payment thereof to the respective party.
- (3) In determining whether to use the account specified in subsection (1) or an account specified in subsection (2), a certified closing officer shall consider only whether the funds to be invested could be utilized to provide a positive net return to the client, as determined by taking into account the following factors:
  - (i) the amount of interest that the funds would earn during the period they are expected to be deposited;
  - (ii) the cost of establishing and administering the account, including the cost of the certified closing officer's services and the cost of preparing any tax reports required for interest accruing to the party(ies)' benefit; and
  - (iii) the capability of financial institutions to calculate and pay interest to individual parties in the manner contemplated by subsection (2).
- (4) As to accounts created under section (d), certified closing officers or the closing firms on whose behalf they are engaged in performing closing services shall direct the depository institution:
  - (i) to remit interest or dividends, net of reasonable check and deposit processing charges which shall only include items deposited charge, monthly maintenance fee, per item check charge, and per deposit charge, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to The Legal Foundation of Washington. Other fees and transaction costs will be directed to the certified closing officer of the closing firm by which he or she is employed to perform closing services;
  - (ii) to transmit with each remittance to the Foundation a statement showing the name of the certified closing officer(s) for whom the remittance is sent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of such statement to be transmitted to the depositing certified closing officer or closing firm.
- (d) Notwithstanding any provision of any other rule, statute, or regulation, escrow and other funds held by a certified closing officer, or the closing firm, incident to the closing of any real or personal property transaction are funds subject to this rule regardless of how the certified closing officer, closing firm, or party(ies) view the funds.

## **Admission/Certification**

**RULES FOR ADMISSION AND CERTIFICATION  
TO  
LIMITED PRACTICE  
UNDER APR 12**

**RULE 1**

Every person desiring to be admitted to limited practice as a Limited Practice Officer pursuant to APR 12 must submit an application, pay the requisite \$125.00 fee, and satisfy all of the requirements of the Rules.

**RULE 2**

**Applicants**

**A.    Definitions**

An "applicant" means any individual who submits an application for admission to limited practice under APR 12.

**B.    Qualifications**

An applicant, in order to have an application for admission to limited practice under APR 12 considered, must:

1.    Fully complete the application for admission to limited practice under APR 12 and photocopy the completed application with both copies of the application forwarded to the Office of the Administrator for the Courts (OAC);
2.    Return with the application the fingerprint card which has been processed by the applicant at a local police department;
3.    Submit completed, signed, and notarized Authorization and Release;
4.    Submit completed, signed, and notarized Affidavit of Applicant; and
5.    Pay a fee of \$125.00 with application. The applicant shall be entitled to a refund of \$50.00 of the application fee if the application be withdrawn at least fourteen (14) days before the date scheduled for examination. If the application be withdrawn by the applicant, and the applicant reapplies to sit for the examination at the next scheduled examination date, the applicant shall pay \$50.00 to sit for the examination.

If the application be denied before the examination has been administered, the applicant shall be entitled to a refund of \$50.00 of the application fee. If the applicant reapplies to sit for the examination, the cost of reapplication shall be \$125.00.

If an applicant fails the examination and intends to sit for the next scheduled examination, the examination fee shall be \$125.00.

No application will be considered or processed without the requisite fee.

C. Filing Application

Persons applying for admission to limited practice under APR 12 should submit their application, in duplicate, together with the required attachments and fee to the OFFICE OF THE ADMINISTRATOR FOR THE COURTS, PO BOX 41172, OLYMPIA WA 98504-1172.

Intake of the application for admission will be handled by the staff of the OAC.

A cutoff date for acceptance of applications will be established by the Limited Practice Board before each scheduled examination. The date shall be disseminated to each applicant when the application packet is distributed by the staff of the OAC.

RULE 3

**Procedure for Processing Applications**

A. Initial Review of the Application

The staff of the OAC will conduct an initial review of all applications received to determine if the application has been completed in accordance with Rule 2(B) and (C). If the application does not meet the requirements of Rule 2(B) and (C), the application with all attachments and fee will be returned to the applicant with an explanation of the deficiency in the application.

B. Application Fee

The \$125.00 application fee will be deposited by the staff of the OAC. Staff will receipt all monies received and send a receipt for the application fee to each applicant acknowledging receipt of the application.

C. Verification of Application Information

Screening criteria and verification will be conducted by the staff of the OAC. Each applicant shall submit a fingerprint card which shall be forwarded to the Washington State Patrol for a criminal history check, and for each applicant who has not resided in the state of Washington for two years, a Federal Bureau of Investigation check shall also be conducted. A status review on all professional licenses shall be conducted for each applicant.

RULE 4

**Approval or Denial of Application**

A. Approval of Application

After the application has been screened and verified by the staff of the OAC, staff will make a recommendation for approval of the application to the Chair of the Limited Practice Board if the application meets the criteria established in APR 12. The staff will forward the application together with all attachments to the Chair of the Limited Practice Board for review. The Chair of the Limited Practice Board will review the application and make a recommendation of approval or denial.

B. Denial of Application

After the application has been screened and verified by the staff of the OAC and found to be deficient in the criteria established in APR 12, staff will forward the application together with all attachments to the Chair of the Limited Practice Board. Further, staff will furnish the Chair with a memorandum reciting the facts disclosed during the investigation leading to the recommendation of denial of the application. The Chair of the Limited Practice Board will review and consider the application together with all attachments and the memorandum of staff and make a recommendation of approval or denial of the application.

If the Chair approves the application, he will make a recommendation of approval, and the applicant may sit for the examination. If the application be denied, the applicant will be granted the right to an appeal of the determination pursuant to Rule 5 herein.

C. Notification of Action on Application

The staff of the OAC shall notify each applicant as to whether the application has been approved or denied. If the application has been approved, the applicant will be informed of the date, time and location of the examination. If the application has been denied, the staff of the OAC will notify the applicant of the appeal process of Rule 5 herein and state the basis of the denial of the application.



## RULE 5

### **Denial of Application--Right of Appeal**

#### A. Appeals Panel

The Appeals Panel shall be made up of three members of the Limited Practice Board which shall be appointed by the Chair. Staff of the OAC shall supply support to the Appeals Panel.

#### B. Right of Appeal

Every applicant who has been denied admission under APR 12 by the Chair of the Limited Practice Board shall have a right of appeal before the Appeals Panel. Written appeal materials will be submitted to the OAC who will distribute them to the Appeals Panel.

#### C. Time Period for Appeal

An aggrieved applicant shall have the right to appeal denial of admission pursuant to APR 12 by submitting a written request to the OFFICE OF THE ADMINISTRATOR FOR THE COURTS, PO BOX 41170, OLYMPIA WA 98504-1170 within fourteen (14) calendar days of the date the denial of application was issued.

#### D. Procedure for Appeal

1. To begin the appeal procedure. The aggrieved applicant must file a written request with the OAC. The request must:
  - a. Be timely filed in accordance with Rule 5(C) herein;
  - b. Sufficiently identify the aggrieved applicant; and
  - c. State the aggrieved applicant's reason for believing that the application should be approved.
2. Other written submissions. The aggrieved applicant may submit other written materials to the Appeals Panel which may include statements, correspondence, affidavits, memoranda of law or other written items that the aggrieved applicant believes will assist the Appeals Panel in reviewing the denial. If the Appeals Panel determines the written submissions are merely cumulative or not relevant to the appeal, the Appeals Panel may exclude any submitted materials from consideration.

The staff of the OAC shall supply the Appeals Panel with the application together with all attachments and all other material relating to the denial of the application. Written materials must be received by staff no later than ten (10) calendar days prior to the scheduled hearing date.

3. Stipulations. Upon agreement of the parties, written stipulations may be utilized by the Appeals Panel.
4. Review by the Appeals Panel. The Appeals Panel shall consider the written material submitted in accordance with Rule 4 unless excluded under Section 2 herein. The Appeals Panel may also request oral presentations by the parties if it deems such helpful to a final determination. The Appeals Panel may set time constraints on the oral presentations.
5. Findings of the Appeals Panel. The Appeals Panel shall make written findings and may affirm or reverse the denial of the application or remand to the Chair of the Limited Practice Board for the reasons stated in the written findings.
6. Time lines and scheduling of the appeal.
  - a. Upon timely receipt of the request for appeal, the Appeals Panel will schedule the matter for consideration on a date not more than fourteen (14) calendar days from the date the request is received at the Office of the Administrator for the Courts. The staff of the OAC will notify the aggrieved applicant of the scheduled date for the consideration of the appeal. Written materials must be received by the Appeals Panel at least seven (7) calendar days prior to the scheduled hearing date.
  - b. The Appeals Panel will not consider any request for appeal which does not strictly comply with Rule 5 herein.
  - c. Upon a showing of good cause, the Appeals Panel may waive the requirements of Rule 5 herein or reschedule the matter for an earlier or later date.
  - d. Telephone conferences may be held in lieu of a hearing, and oral presentations may be made by telephone if requested by the Appeals Panel.
7. Notification of findings. The staff of the OAC shall notify each aggrieved applicant of the findings of the Appeals Panel. If the application has been approved, the applicant will be supplied any forms or information necessary to sit for the examination by the staff of the OAC. If the application has been denied, the applicant will be informed and supplied a copy of the Appeals Panel's written findings.

## RULE 6

RESERVED

## RULE 7

RESERVED

## RULE 8

### **Necessary Letters and Forms**

Staff of the OAC shall prepare all the necessary letters and forms and submit them to the Limited Practice Board for approval. Approval of the forms and letters is garnered by the vote of the majority of the members of the Board.

## RULE 9

### **Examination Frequency and Locations**

The examination will be administered twice a year. The examination will be given in appropriate locations within the state. The staff of the OAC is to notify all applicants at least thirty (30) days before the scheduled examination date of the times and locations of each examination.

## RULE 10

### **Examination Standards and Notification of Results**

The passing standard for the examination is set at 75 percent. All applicants will be notified by the staff of the OAC of the applicant's examination results. Those applicants who unsuccessfully sit for the examination may request that they be informed of their score on the examination by category. The request shall be made in writing by the applicant to the staff of the OAC. Test scores shall not be made available to those applicants who successfully sit for the examination. Copies of the examination shall not be available to any applicant.

## RULE 11

### **Reapplication for Examination**

Applicants may take the examination three times without making reapplication. However, after three failures, an applicant shall make reapplication to sit for reexamination.

## RULE 12

### **Submission of Successful Applicants to Supreme Court**

#### **A. Admission Order.**

The Chair of the Limited Practice Board shall submit to the Chief Justice of the Washington State Supreme Court the names of those persons who have successfully taken the examination for admission pursuant to APR 12, taken an oath that he or she will comply with APR 12, and furnished proof of the applicant's individual policy for Errors and Omissions insurance in the amount of at least \$100,000 or the Errors and Omissions policy of the employer or the parent company of the employer who has agreed to provide coverage for the applicant's ability to respond in damages in the amount of at least \$100,000 pursuant to APR 12, or submitted the applicant's audited financial statement showing the applicant's net worth to be at least \$200,000, or submitted an audited financial statement of the employer or other surety who agrees to respond in damages for the applicant, indicating net worth in the following amounts in relationship to the number of employees covered who may be subject to the jurisdiction of the Limited Practice Board:

Net Worth	Number of Employees
\$200,000	Each employee to and including five (5); and
\$100,000	Each additional employee over five (5)

The names shall be submitted only after compliance with these Rules, and the persons will be duly admitted under APR 12 only after the admission order has been signed by the Chief Justice.

Each successful applicant shall complete all the requirements for certification within nine (9) months of the date the applicant successfully sat for examination. If an applicant fails to satisfy all the requirements for certification within this period, the applicant shall not be eligible for admission under APR 12 without submitting a new application for admission.

#### **B. Contents of Oath.**

The oath which all applicants shall take is as follows:

## **OATH FOR LIMITED PRACTICE OFFICERS**

STATE OF WASHINGTON  
COUNTY OF

I, \_\_\_\_\_, do solemnly declare:

1. I am fully subject to the laws of the state of Washington and the Admission to Practice Rule 12 and Regulations adopted by the Washington State Supreme Court and will abide by the same.
2. I will support the constitutions of the state of Washington and of the United States of America.
3. I will abide by the Admission Rules and the Disciplinary Rules approved by the Supreme Court of the state of Washington.
4. I will confine my activities as a Limited Practice Officer to those activities allowed by law, rule and regulation and will only utilize documents approved pursuant to APR 12.
5. I will faithfully disclose the limitations of my services, that I am not able to act as the advocate or representative of any party, that documents prepared will affect legal rights of the parties, that the parties' interests in the documents may differ, that the parties have a right to be represented by a lawyer of their own selection, and that I cannot give legal advice regarding the manner in which the documents affect the parties.
6. I understand that I may incur personal liability if I violate the applicable standard of care of a Limited Practice Officer. Also, I understand that I only have authority to act as a Limited Practice Officer during the times that my financial responsibility coverage is in effect. If I am covered under my employer's errors and omissions insurance policy or by my employer's certificate of financial responsibility, my coverage is limited to services performed in the course of my employment.

\_\_\_\_\_  
Signature Limited Practice Officer

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
JUDGE

### **RULE 13**

#### **Annual Fee**

Every Limited Practice Officer (LPO) shall pay an annual fee of \$85.00 through the OAC. The fee runs in accordance with the fiscal year commencing July 1, 1984. Failure to pay the annual fee shall subject the LPO to disciplinary action.

### **RULE 14**

#### **Insurance**

Each LPO shall either be insured or covered under the financial statement of an employer or other surety at all times as specified in Rule 12 herein. If the LPO is covered under a financial statement, the LPO, employer, or other surety who has assumed such financial responsibility shall annually file with the Limited Practice Board, by July 1, the audited financial statement for the most-recent fiscal year of the financially responsible party indicating net worth.

Each LPO shall notify the staff of the Limited Practice Board of any cancellation or lapse in coverage. During any period that a LPO is not covered in accordance with Rules 12 and 14, or is not on inactive status pursuant to Rule 16, the license of the LPO shall be suspended. Each suspended LPO must demonstrate compliance with the requirements of Rule 12 within nine (9) months of the date of the suspension or the license of the suspended LPO shall be revoked.

### **RULE 15**

#### **Continuing Education**

Every LPO shall attend a minimum of ten (10) hours of approved continuing education during each calendar year. Two (2) hours of the required ten (10) hours of continuing education shall be on liability issues. If an active LPO completes more than ten (10) credit hours in a given calendar year, the excess credit, up to ten credits, may be carried forward and applied to such LPO's education requirements for the next calendar year.

Every LPO shall submit proof of compliance with the continuing education attendance requirements by filing an Affidavit of Attendance as prescribed by the Limited Practice Board through the OAC at the end of each calendar year. Failure to attend the requisite hours of approved continuing education each calendar year shall subject the LPO to disciplinary action.

## **RULE 16**

### **Inactive Status**

Any LPO may request leave of the Limited Practice Board to move to inactive status after being certified.

Any LPO who has been granted inactive status must meet all the continuing education requirements occurring during the period of inactive status before transferring to active status by the LPO.

Any LPO awarded inactive status by the Limited Practice Board is not required to pay the annual fee prescribed by Rule 13 or to meet the insurance requirements prescribed by Rule 14 during the period of inactive status.

If a LPO remains on inactive status for longer than two (2) years from the date of transfer to inactive status, the LPO can be returned to active status only after successfully taking the examination required for certification under APR 12.

A LPO who has been awarded voluntary inactive status may return to active status by filing a petition to return to active status with the Board within two (2) years from the date the LPO was granted voluntary inactive status. To be granted active status, the LPO must pay the annual dues prescribed by Rule 13 and meet the insurance requirements prescribed by Rule 14.

## **RULE 17**

### **Voluntary Certification Cancellation**

Any Limited Practice Officer may voluntarily surrender the LPO certificate by notifying the Limited Practice Board in writing of the desire to cancel and returning the LPO certificate with the request. The Limited Practice Board will notify the LPO of the effective date of the cancellation.

The former LPO shall then promptly notify by registered or certified mail, return receipt request, all clients being represented in pending matters, of the certification cancellation and the consequent inability to act as a Limited Practice Officer.

After entry of the cancellation order, the former LPO shall not accept any new clients or engage in work as a LPO in any matter.

Within ten (10) days after the effective date of the cancellation order, the former LPO shall file with the Clerk of the Supreme Court an affidavit showing:

- The former LPO has fully complied with the provision of the order and with these rules;
- The residence or other address of the former LPO where communications may hereafter be directed; and
- Attaching to such affidavit a copy of the form of letter of notification sent to clients being represented in pending matters, together with a list of the names and addresses of all clients to whom such notice was sent.

The Board shall cause a notice of the cancellation to be published in the Washington State Escrow Association newsletter and a newspaper of general circulation in the county in which the former LPO worked.

### **RULE 18**

#### **Change in Status**

When a LPO is demonstrating financial responsibility by 1) an endorsement on the employer's Errors and Omissions insurance policy, or 2) submission of the employer's audited financial statement accompanied by the Certificate of Financial Responsibility, the Chair of the Limited Practice Board shall notify the employer when the LPO is transferred to one of the following statuses: inactive status, voluntary certification, cancellation, disability inactive status, or the license is suspended or revoked.

### **RULE 19**

#### **LPO Name, Signature, and Number Required on Disclosure Form**

The documents, selected, prepared, and/or completed by the LPO shall be particularly identified on a disclosure which shall also include the name, signature, and number of the LPO.



## Disciplinary Rules

# **DISCIPLINARY RULES FOR LIMITED PRACTICE OFFICERS**

## **TITLE 1. GROUNDS AND JURISDICTION**

### **RULE 1.1**

#### **Grounds**

A Limited Practice Officer (hereinafter referred to as LPO) may be subjected to the disciplinary actions or sanctions set forth in Rule 1.10 for any of the following causes or actions:

- A. The commission of any act involving moral turpitude, dishonesty, corruption, or other act which reflects disregard for the rule of law, whether the act be committed in the course of an LPO's conduct or otherwise; and whether or not the act constitutes a felony or misdemeanor; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action, nor shall acquittal or dismissal thereof preclude the commencement of a disciplinary proceeding. Upon such conviction, however, the judgment and sentence shall be conclusive evidence at the ensuing disciplinary hearing of the guilt of the respondent LPO of the crime described in the indictment or information, and of the violation of the statute upon which it is based. A disciplinary hearing as provided in Rule 1.8 of these Rules shall be had to determine:
  - 1. Whether moral turpitude was in fact an element of the crime committed by the respondent LPO; and
  - 2. The disciplinary action recommended to result therefrom;
- B. Violation of the oath or duties as an LPO;
- C. Permitting an LPO's name to be used as an LPO by another person who is not an LPO authorized under APR 12;
- D. Misrepresentation or concealment of a material fact made in the application for admission under APR 12 or in support thereof;
- E. Suspension, revocation or other disciplinary sanction by competent authority in any state, federal or foreign jurisdiction;
- F. Selecting, preparing, or completing documents authorized by APR 12 for or together with any person whose LPO certification has been revoked or suspended, if the certified LPO has knowledge of such revocation or suspension;

- G. Willful disregard of a subpoena or notice of the Disciplinary Panel or the Limited Practice Board (hereinafter referred to as Board) or the making of a false statement under oath in any document filed with the staff of the Administrator for the Courts (hereinafter referred to as the OAC) or members of the Board;
- H. Conduct demonstrating unfitness to work as an LPO;
- I. Working as an LPO while on inactive status;
- J. Failure to cooperate during the course of an investigation as required by this rule shall also constitute grounds for discipline.

### RULE 1.2

#### **Jurisdiction**

An LPO shall be subject to these rules. Jurisdiction shall continue whether or not the LPO retains his or her license under APR 12, and regardless of the residence of the LPO.

### RULE 1.3

#### **Disciplinary Panel**

- A. Appointment. The Chair of the Board shall appoint from its members not less than three persons to act as members of the Disciplinary Panel; one of whom shall be appointed Chair by the other members of the Panel.
- B. Term. The members of the Disciplinary Panel shall serve until replaced by the Chair of the Board or for a two-year period from the date of their appointment.
- C. Duties. It shall be the duty of the Disciplinary Panel to:
  - 1. Take cognizance of any alleged or apparent violations of these rules coming to its attention, whether by complaint or otherwise, to investigate the same promptly and to submit a report to the full Board within sixty (60) days from the date the matter first came to the attention of the Disciplinary Panel unless the time is extended by the Chair of the Board; and
  - 2. Submit reports to the Board which shall be in such form and pursuant to such procedures as may from time to time be prescribed by the Board; such reports shall form a part of the permanent records of the Board and may be used as a basis for the commencement of disciplinary proceedings.

- D. Testimony. Where, in the discretion of the Disciplinary Panel, there is reasonable cause to believe that testimony should be perpetuated, the Disciplinary Panel may, upon reasonable notice to the LPO investigated, cause the deposition of any witness to be taken under oath before a Notary Public or before any other officer authorized by the law of the jurisdiction where the deposition is taken to administer an oath, and have the same transcribed for use in further proceedings under these Rules to which the LPO may be a party.
- E. Authority. The authority of the Disciplinary Panel shall include, but not be limited to, the power conditionally to settle and dispose of complaints of a trivial nature without a hearing; provided, that a complete report of the disposition of each complaint shall be made to the Board; upon the filing of the report with the Board, such conditional disposition shall be deemed conclusive unless the Board acts otherwise within sixty (60) days from receipt of such report. Settlement of, compromise of, or restitution in a matter shall not justify the Disciplinary Panel in failing to undertake or complete its investigation and report thereof to the Board.
- F. Matters Involving Related Pending Civil or Criminal Liability. Processing of complaints involving material allegations which are substantially similar to the material allegations of pending criminal or civil litigation may be deferred when authorized by the Board. In such event, the respondent LPO shall make all reasonable efforts to obtain a prompt trial and disposition of such pending litigation. The acquittal of the respondent LPO on criminal charges or a verdict or a judgment in the LPO's favor in a civil litigation involving substantially similar material allegations shall not in and of itself justify abatement of a disciplinary investigation predicated upon the same material allegations.

#### RULE 1.4

### **Supreme Court**

The Supreme Court of Washington has exclusive responsibility within the state for the administration of the LPO discipline and disciplinary system and has inherent power to maintain appropriate standards of professional conduct and to dispose of individual cases of LPO discipline. The Board carrying out the functions set forth in these rules are acting under the authority of the Supreme Court.

#### RULE 1.5

### **Respondent Limited Practice Officer**

It shall be the duty and the obligation of an LPO who is the subject of a disciplinary investigation to cooperate with the Disciplinary Panel, Board, or OAC staff as requested, subject only to the proper exercise of the LPO's privilege against self-incrimination where applicable by:

- A. Furnishing any papers or documents, permitting inspection and copying of his or her business records, files and accounts;
- B. Furnishing, in writing, or orally if requested, a full and complete explanation covering the matter contained in such complaint;

- C. Furnishing written releases or authorizations where needed to obtain access to documents or information in the possession of third parties; and
- D. Appearing before the Disciplinary Panel or Board at the time and place designated;
- E. An LPO may be represented by counsel during any stage of an investigation or proceeding under these rules.

### RULE 1.6

#### **Duties of Complainant**

Upon request, the person complaining shall furnish to the Disciplinary Panel, Board, or OAC staff, documentary and other evidence in the complainant's possession and the names and addresses of witnesses, and assist in securing evidence in relation to the facts charged; and appear and testify at any proceeding resulting from the complaint. Failure to fulfill these duties may be grounds for the dismissal of a complaint.

### RULE 1.7

#### **Pleadings**

The only permissible pleadings upon proceedings before the Disciplinary Panel are a formal complaint, a notice to answer, answer to complaint and motions to make more definite and certain, or in the alternative, for a bill of particulars. Informality in the complaint or answer shall be disregarded.

- A. Formal Complaint. If the Disciplinary Panel determines a hearing should be had to ascertain whether a violation of these Rules has occurred, a formal complaint shall be prepared and filed in the office of the OAC, and proceedings shall be had thereon as hereinafter provided. The formal complaint, which need not be verified, shall set forth the particular acts or omissions of the respondent LPO in such detail as to enable the LPO to know the charge and shall be signed by the Chair of the Disciplinary Panel.
  - 1. Prior Record of a Separate Count. Prior disciplinary proceedings and complaints against a respondent LPO, excluding dismissals after a hearing before the Disciplinary Panel or Board, shall be made a separate count of the complaint if they indicate conduct demonstrating unfitness to act as an LPO.
  - 2. Prior Record as Professional History. If a prior record of the respondent LPO is not made a separate count of the complaint, any prior record of admonition, letters of censure, reprimand, suspension of further proceedings, suspension or revocation or any absence of such record, shall be made a part of the record prior to the recommendations of the Disciplinary Panel to the Board.
  - 3. Joinder. The Disciplinary Panel in its discretion may consolidate for hearing two or more charges as to the same LPO, or may join the charges as to two or more LPO's in one formal complaint.

4. Commencement of Proceedings. A disciplinary action shall be deemed commenced when the formal complaint has been filed with the office of the OAC.
5. Procedural Irregularity. No technical irregularity shall affect the validity of such complaint or of any proceedings pursuant thereto.

B. Answer. The answer must contain:

1. Denials. A general or specific denial of each material allegation of the complaint that is controverted by the respondent LPO, or a denial of knowledge or information thereof sufficient to form a belief. Any allegation, not denied will be deemed admitted;
2. Affirmative Defenses. A statement of any matter constituting a defense or justification in ordinary and concise language without repetition;
3. Address. An address at which all further pleadings, notices or other documents in relation to the proceedings may be served upon the respondent LPO;
4. The answer with two copies shall be filed at the office of the OAC;
5. The Chair of the Disciplinary Panel may at any time allow or require amendments to the complaint or to the answer;
6. If personal service is made on the respondent LPO in the state of Washington, the LPO shall be allowed twenty (20) days from the date of service, exclusive of the date of service, in which to answer; if service be made in any other manner or place, the respondent LPO shall be allowed thirty (30) days from the date of service, or the date of mailing, exclusive of the date of service, or mailing, in which to answer; and
7. For good cause, the Chair of the Disciplinary Panel may extend the time for any pleading.

C. Service.

1. Formal Complaint. A copy of the formal complaint with notice to answer shall be served on the respondent LPO in the following manner.
  - a. Personal Service in Washington. If the respondent LPO be found in the state of Washington, by personal service upon the LPO in the manner as is required for personal service of a summons in civil actions in the Superior Court;

- b. Service If Not Found in Washington. If the respondent LPO cannot be found in the state of Washington, then by leaving a copy thereof at the LPO's place of usual abode in the state of Washington, with some person of suitable age and discretion then resident therein, or by mailing by registered or certified mail, postage prepaid, a copy addressed to the LPO at the LPO's last known 1) place of abode, 2) office address maintained by the LPO as an LPO, or 3) post office address;
  - c. Service Outside Washington. If the respondent LPO be found outside of the state of Washington, then by personal service or by mail as set forth in subsection b. above; or
  - d. Service When Question of Mental Competence. If a guardian or guardian ad litem has been duly approved for the respondent LPO who has been judicially declared to be of unsound mind, or incapable of conducting the LPO's own affairs, service as above shall be had on the guardian or guardian ad litem. Where a complaint is filed under Rule 1.6 A, service as above shall also be had on the person having the care and custody of the respondent LPO, if there be such a person.
- 2. Other Pleadings, Notices or Other Documents. Service upon the respondent LPO of any pleadings, notices or other documents required by these rules to be served, other than the formal complaint and notice to answer, may be made by mailing the same postage prepaid to, or leaving the same at, the address set forth in the LPO's answer, or in the absence of an answer, by mailing the same postage prepaid to, or leaving the same at, the address of the respondent LPO on file in the office of the OAC.
  - 3. Service on the Board or Disciplinary Panel. Service on the Board or Disciplinary Panel of any pleadings, notices or documents shall be made by filing the same at the OFFICE OF THE ADMINISTRATOR FOR THE COURTS, PO BOX 41170, OLYMPIA WA 98504-1170.
  - 4. Mailing. When such other pleadings, notices, or documents are to be served by mail, they shall be sent by registered or certified mail with postage prepaid.
  - 5. Proof of Service. Proof of service by Affidavit of Service, Sheriff's Return of Service or a signed Acknowledgment of Service, shall be filed in the office of the OAC.

### RULE 1.8

### **Hearings**

- A. Where Held. All disciplinary hearings shall be held within the state of Washington at such place as may be directed by the Board or Disciplinary Panel Chair.

- B. Date of Hearing. The Chair of the Disciplinary Panel shall cause notice of the time and place of the hearing to be given to the respondent LPO at least ten (10) days prior thereto. The hearing shall occur not earlier than thirty (30) days or later than sixty (60) days after service of the complaint, unless delayed for good cause.
- C. Postponements. At the time and place approved for the hearing the Disciplinary Panel may grant a postponement, but no postponement shall be for longer than thirty (30) days, and the total period of time of all postponements shall not exceed sixty (60) days unless approved by the Board. An application for postponement by the respondent LPO or by the complainant shall be supported by affidavit and served and filed at least seven (7) days prior to the scheduled hearing, unless such time is shortened by the Chair of the Disciplinary Panel.
- D. Representation. The complainant may be present at the hearing(s) before the Disciplinary Panel and may be represented by counsel. The respondent LPO may be present at the hearing(s) before the Disciplinary Panel and may be represented by counsel.
- E. Default. In no event shall a default be entered against the respondent LPO. If the LPO fails to answer the complaint within the time allowed by these rules, the Disciplinary Panel shall proceed to a determination of the matter in the same manner as though the respondent LPO were present and had answered by a general denial. No notice of the date of hearing or of the taking of depositions of witnesses to be used at the hearing shall be required to be given to such respondent LPO failing to answer. If the respondent LPO has answered but fails to attend the hearing at the time set, the Disciplinary Panel shall proceed to a determination of the matter in the same manner as though the respondent LPO were present.
- F. Proceedings Public. Upon the filing and service of a formal complaint and after the LPO has answered that complaint, or failed to answer within the time required, a disciplinary proceeding shall be public, subject to the provisions of any protective order as may be entered pursuant to Section I. The filing of a motion for a protective order shall stay the provisions of this rule with regard to any matter sought to be kept confidential in that motion, and the motion itself shall be confidential until ruled upon.
- G. Matters Which Are Public. In a matter which is public pursuant to section (F), any person may have access to the contents of the Disciplinary Panel's file in the pending proceeding, and may attend any hearing on the charges against the LPO, except a hearing on a motion. In any disciplinary matter referred to the Supreme Court, the file, record, briefs, and argument in the case shall also be public except to the extent previously made confidential by a protective order or as otherwise ordered by the court.
- H. Matters Which Are Not Public. In no case shall deliberations of a hearing panel, board or court, or matters made confidential by a protective order, be public.



- I. Protective Orders. In order to protect a compelling interest of a complainant, witness, third party, or respondent, the panel chair or the chair of the Board when a matter is before a panel or the Board for review, may, upon motion and for good cause shown, issue a protective order prohibiting the disclosure of specific information or specific documents or pleadings, and direct that the proceedings be conducted so as to implement the order.
- J. Procedure. Each member of the Disciplinary Panel shall have the power to issue subpoenas to compel the attendance of witnesses or the production of books or documents at such hearings. The respondent LPO shall have the opportunity to make a defense, and upon timely application may have issued such subpoenas as any member of the Disciplinary Panel deems necessary. Subpoenas shall be served in the same manner as in civil cases in Superior Court. Witnesses shall testify under oath administered by the Chair of the Disciplinary Panel. Testimony shall be electronically recorded and may be taken by deposition in accordance with these rules.
- K. Depositions. Depositions for use at the hearing may be taken either within or without the state upon either written or oral interrogatories before any member of the Disciplinary Panel or before any other officer authorized to administer an oath by the law of the jurisdiction where the deposition is taken. Any member of the Disciplinary Panel shall have the power to order the taking of a deposition. All depositions when taken shall be filed in the office of the OAC.
- L. Discovery, Admissions, Inspection of Documents. After the filing of the formal complaint against an LPO, the parties shall have the rights afforded to Superior Court litigants under Rules 33, 34, and 36 of the Superior Court Civil Rules, limited and prescribed as follows: Such rights may be limited to the extent the Chair of the Disciplinary Panel deems just who shall do so by order.
- M. LPO Duties. The respondent LPO shall bring to the hearing such documents, files, records, or other written materials or things as the Chair of the Disciplinary Panel may request in writing. The written request shall be served on the respondent LPO at least five (5) working days before the scheduled hearing.
- N. Cooperation. It shall be the duty of an LPO who has been served with a formal complaint to respond to all lawful orders made by the Chair of the Disciplinary Panel as provided in the paragraphs L and M. Should such LPO fail to do so, the Chair of the Disciplinary Panel shall report the same to the Board, and such failure may constitute a separate violation of these rules.
- O. Standard of Proof. The burden of establishing an act of misconduct shall be by a clear preponderance of the evidence.
- P. Rules of Evidence. The following rules of evidence shall apply during disciplinary hearings:

1. The Chair of the Disciplinary Panel may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The Chair of the Disciplinary Panel may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.
  2. All evidence, including but not limited to records and documents in the possession of the Board of which it desires to avail itself, shall be offered and made a part of the record in the case and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the forms of copies or excerpts or by incorporation by reference.
  3. The LPO (or the LPO's counsel) shall have the right of cross examination of witnesses who testify and shall have the right to submit rebuttal evidence.
  4. The Chair of the Disciplinary Panel may take notice of judicially cognizable facts and in addition may take notice of general, technical or scientific facts within the panel's specialized knowledge. The LPO (or the LPO's counsel) shall be notified either before or during hearing, or otherwise, of the material so noticed and shall be afforded an opportunity to contest the facts so noticed.
- Q. Findings, Conclusions and Recommendation. Within twenty (20) days after the hearing, the Chair of the Disciplinary Panel shall cause findings, conclusions and recommendation to be filed with the Board.

#### RULE 1.9

#### **Stipulations**

- A. Requirements. Any disciplinary matter may be disposed of by a stipulation for discipline entered into at any time by the respondent LPO and by the Board or the attorney appointed to represent the Board if one has been so appointed. No such stipulation shall be effective unless approved by the Board, and no stipulation for suspension or revocation shall be effective unless approved by the Supreme Court. The stipulation may be presented to the Board and the Supreme Court for approval without notice.
- B. Form. A stipulation for discipline shall:
1. Set forth the material facts relating to the particular acts or omissions of the respondent LPO in such detail as to enable the Board and the Supreme Court to form an opinion as to the propriety of the discipline being agreed upon, and if approved, to make the stipulation useful in any subsequent disciplinary proceedings against the respondent LPO;
  2. Set forth the respondent LPO's prior record of admonition, censure, reprimand, suspension, revocation or any absence of such record;

3. State the stipulation is not binding as a statement of all existing facts relating to the conduct of the respondent LPO, but that any additional existing acts may be proven in any subsequent disciplinary proceedings; and
  4. Fix the amount of costs and expenses to be paid by the respondent LPO.
- C. Stipulation Approved. If the stipulation be approved by the Board and/or the Supreme Court, the disciplinary action agreed to in the stipulation shall follow. If the stipulation is for admonition, censure or reprimand, the stipulation shall be retained at the OAC with notice thereof sent to the Supreme Court.
- D. Stipulation Not Approved. If the stipulation is not approved by the Board or the Supreme Court, as the case may be, then the stipulation shall be of no force and effect and neither it nor the fact of its execution shall be admissible in evidence in any pending disciplinary proceeding, in any subsequent disciplinary proceeding or in any criminal or civil action.
- E. Failure to Comply. Failure of a respondent LPO to comply with the terms of a stipulation for discipline entered into and approved as provided in this rule may constitute grounds for discipline.

#### **RULE 1.10**

#### **Sanctions and Other Remedies**

- A. Sanctions. The disciplinary sanctions or actions affecting the status of an LPO are admonitions, letters of censure, reprimands and recommendations to the Supreme Court for the suspension or revocation of the certification.
- B. Restitution. An LPO who has been found to have committed an act of misconduct and who has been sanctioned pursuant to this rule may in addition be ordered to make restitution to persons financially injured by the LPO's conduct. The Chair of the Disciplinary Panel may order the terms of payment of restitution. Failure of an LPO to make restitution when ordered to do so, or failure to comply with the terms entered, may constitute grounds for discipline.

#### **RULE 1.11**

#### **Transfer to Disability Inactive Status**

- A. Automatic Transfer. In the event an active LPO 1) has been found to be incapable of assisting in the LPO's own defense in a criminal action, 2) has been acquitted of a crime on the ground of insanity, 3) has had a guardian (but not a limited guardian) appointed for the LPO's person or estate upon a finding of incompetency, or 4) has been found to be mentally incapable of conducting the work of an LPO in any other jurisdiction, the LPO shall automatically be transferred from active status to disability inactive status upon receipt by the Board of a certified copy of the judgment, order or other appropriate document demonstrating that one or more of the above events has occurred.

The LPO and the LPO's guardian, if one has been appointed, shall forthwith be notified of the transfer to disability inactive status. The Supreme Court shall be notified of the transfer to disability inactive status and shall be provided with a copy of the judgment, order or other appropriate document upon which the transfer was based.

B. Discretionary Transfer.

1. Disciplinary Panel May Order Inquiry. When it appears to the Disciplinary Panel that there is reasonable cause to believe that an active LPO is unable to adequately engage in the work of an LPO because of insanity, mental illness, senility, excessive use of alcohol or drugs, or other mental or physical incapacity, the Disciplinary Panel shall order that a hearing be held to inquire into the capacity of the LPO to engage in the limited practice of law.
2. Inquiry During Disciplinary Proceeding. When it appears to the Disciplinary Panel or Board that there is reasonable cause to believe a respondent LPO is incapable of conducting a proper defense to a disciplinary proceeding against the LPO because of insanity, mental illness, senility, excessive use of alcohol or drugs or other mental or physical incapacity, the Disciplinary Panel or Board shall order that a supplemental hearing be held to inquire into the capacity of the LPO to conduct a proper defense. Such hearing shall be automatic where the respondent LPO alleges in the course of a disciplinary proceeding that the LPO is unable to conduct a proper defense because of such mental or physical incapacity.
3. Procedure. Proceedings conducted pursuant to this rule are not disciplinary proceedings but shall be conducted under the same procedural rules as disciplinary proceedings. Any hearing held under subsection (2) above may be treated either as a new proceeding or as part of an existing proceeding, at the discretion of the Disciplinary Panel or Board, and the disciplinary hearing shall be held in abeyance pending the outcome of the supplemental proceeding. A recommendation of the Disciplinary Panel that an LPO be transferred to disability inactive status under this rule shall be treated as a recommendation for suspension for the procedural purposes of these rules, including Rules 2.4 and 3.1.
4. Appointment of Counsel. In the event the respondent LPO does not appear with counsel within the time required by these rules for the filing of an answer, or within twenty (20) days of being notified of the issues to be considered in a supplemental proceeding under subsection (2) above, the Chair of the Board shall appoint a member of the Washington State Bar Association as counsel for the respondent LPO.
5. Finding of Incapacity. If after review of the decision of the Disciplinary Panel, the Board finds an LPO does not have adequate mental or physical capacity to engage in the work of an LPO or to conduct a proper defense to disciplinary charges, it shall enter an order immediately transferring the LPO to disability inactive status. Such transfer shall become effective upon service of such order upon the LPO or the LPO's counsel.
6. Appeal to Supreme Court. The LPO may appeal an order of transfer to disability inactive status pursuant to the provisions of Rule 3.1. The order of the Board shall

remain in effect, regardless of the pendency of such appeal unless and until reversed by the Supreme Court.

7. Proceedings Confidential. All proceedings conducted pursuant to this rule shall be confidential except as otherwise provided for herein.

**RULE 1.12**

**Reinstatement to Active Status**

- A. Restriction, Right of Petition, and Burden. No LPO transferred to disability inactive status may resume active status except by order of the Board or the Supreme Court. Any LPO transferred to disability inactive status shall be entitled to petition the Board for transfer to active status. The LPO shall have the burden of showing that the disability has been removed.
- B. Petition and Initial Review. The petition for reinstatement shall set forth the facts demonstrating that the disability has been removed. The petition shall be filed with the Board at the OAC. Upon the filing of the petition, the Chair of the Board shall direct whatever action appears necessary or proper to determine whether the disability has been removed. Such actions include, but are not limited to, direction: 1) that an appointed counsel for the Board or any other person conduct an investigation and file a report, 2) that an examination of the LPO be conducted by a qualified expert or experts, and 3) that a hearing be held before the Disciplinary Panel or Board.
- C. Waiver of Doctor-Patient Privilege. The filing of a petition for reinstatement to active status by an LPO transferred to disability inactive status shall be deemed to constitute a waiver of any doctor-patient privilege with respect to any treatment of the LPO during the period of the LPO's disability. The LPO shall be required to disclose the name of each psychiatrist, psychologist, physician or other person and each hospital or other institution by whom or in which the LPO has been examined or treated since the LPO's transfer to disability inactive status. The LPO shall furnish, if requested by the Board or its appointed attorney, if there be one, written consent to each person or hospital to divulge information and records relating to the disability.
- D. Review of Record. Prior to the submission of the petition and any report to the Board, the LPO shall have a reasonable opportunity to review the report and to make any additional submissions deemed desirable.
- E. Board Review. The Board shall review the petition and report as expeditiously as possible and take one or more of the following actions:
1. Grant the petition;
  2. Direct whatever additional action the Board deems necessary or proper to determine whether the disability has been removed;

3. Direct that the LPO establish proof of competence and learning in the area of work of an LPO, which proof may include certification by the APR 12 examiners of the LPO's successful completion of an examination for a limited admission to practice under APR 12;
  4. Deny the petition, but no such denial shall occur except as hereinafter provided without the LPO having the opportunity for a hearing before the Board or Disciplinary Panel. A hearing is not necessary if the LPO has failed to state a prima facie case for reinstatement in the LPO's petition, or if the petition does not indicate a material change of circumstance since a previous denial of a petition for reinstatement filed by an LPO; and/or
  5. Direct the LPO to pay the costs of the reinstatement proceedings.
- F. Petition Granted. If the petition for reinstatement be granted, the respondent LPO shall immediately be transferred to active status and the Supreme Court notified thereof. If a disciplinary proceeding has been held in abeyance because of a disability inactive transfer, the proceeding shall go forward upon reinstatement.
- G. Review by Supreme Court. If the petition for reinstatement is not granted, the respondent LPO shall have the right to appeal the decision of the Board to the Supreme Court by filing a notice of appeal with the office of the OAC within fifteen (15) days of service of the decision of the Board upon the respondent LPO. Review shall be conducted pursuant to the procedures of Title 3 herein.
- H. Continuing Education Requirements. All of the required continuing education requirements occurring during the disability inactive status of an LPO must be made up within one (1) year of transfer to active status by the LPO.
- I. Length of Inactive Status. No LPO shall remain on disability inactive status for longer than one (1) year from the date of transfer to disability inactive status. If an LPO remains on disability inactive status for a period longer than one (1) year from the date of transfer to disability inactive status, the LPO can be returned to active status only after successfully taking the examination required for certification under APR 12.

## **TITLE 2. REVIEW BY THE BOARD**

### **RULE 2.1**

#### **Notices**

When the findings, conclusions and recommendation of the Disciplinary Panel are filed at the OAC, a copy thereof and a notice of filing, with a copy of Rules 2.1 through 2.6, shall be served upon the respondent LPO or the LPO's counsel.

### **RULE 2.2**

#### **Statement in Support or Opposition**

At any time within ten (10) days after the service of the above-mentioned notice, the counsel appointed by the Board, if any, or the respondent LPO shall have the right to file with the Board a typewritten statement in support of or in opposition to the findings, alleged errors of law or any other matter in support of such statement. A copy of such statement, when filed, shall be served on the counsel appointed by the Board, if any, or the respondent LPO or the LPO's counsel.

### **RULE 2.3**

#### **Additional Hearing**

In making the above statement in support of or in opposition to the findings, conclusions and recommendation of the Disciplinary Panel, the counsel appointed by the Board, if any, or the respondent LPO may request an additional hearing before the Disciplinary Panel based on newly discovered evidence; provided however, that such statement shall contain a complete outline of such newly discovered evidence and shall set forth the reasons why the same was not presented at the hearing, all supported by affidavit. Such request may be granted or denied at the discretion of the Board.

### **RULE 2.4**

#### **Board Review**

Each proceeding in which a hearing has occurred shall be reviewed by the Board upon the record made and filed in the office of the OAC, together with the statements in support of or in opposition to such findings, conclusions and recommendation as provided by these rules. No person shall be entitled to be heard orally in such review, unless ordered by the Board.

## RULE 2.5

### **Transcript of the Record**

The Board may have all the testimony transcribed. If a transcript be made, a copy thereof shall be served upon the respondent LPO or the LPO's counsel and the counsel appointed by the Board, if any, each of whom shall have ten (10) days from the date of service of the transcript to file objections to the contents thereof with the staff of the OAC.

## RULE 2.6

### **Board Action**

- A. Decision of Board. Prompt decision of the Board upon such review shall be made. The Board shall adopt, modify or reverse the findings, conclusions and recommendation of the Disciplinary Panel by written order, a copy of which shall be served upon the respondent LPO or the LPO's counsel.
- B. Transcript Required for Suspension or Revocation. No suspension or revocation shall be recommended by the Board unless and until a transcript of the testimony before the Disciplinary Panel shall have been reduced to writing and settled as provided in Rule 2.5.
- C. Dissent. If any member or members of the Board shall dissent from the findings, conclusions and recommendation of the majority, the member or members shall state briefly the reasons therefore and such dissent or dissents shall be made a part of the record.
- D. Disposition Not Requiring Supreme Court Action. If the formal complaint is dismissed or if there is no recommendation of discipline by the Board or if the recommendation is that the respondent LPO be admonished, censured or reprimanded, the record of the proceeding shall be retained in the office of the OAC.
- E. Disposition Requiring Supreme Court Action. If the recommendation of the Board is that the respondent LPO be suspended or revoked, that recommendation along with the record shall be transmitted to the Supreme Court.
- F. Chair Not Disqualified. Neither the Chair of the Board nor a member or members of the Board who also serve on the Disciplinary Panel are, by virtue of that office or service, disqualified from participating in the review before the Board of that Disciplinary Panel's findings, conclusions and recommendation or from participating in that Board's vote on the matter.
- G. Information to Complainant. The complainant in all cases shall be advised by the Board of the final disposition of the complaint.



### **TITLE 3. REVIEW BY THE SUPREME COURT**

#### **RULE 3.1**

##### **Procedure**

- A. Notification of Filing. Upon the filing of the recommendation of suspension or revocation and of the record, the Clerk of the court shall mail written notice to the counsel appointed by the Board, if any, and the respondent LPO and the LPO's counsel.
- B. Review on the Record. The Supreme Court shall review the recommendation of the Board for suspension or revocation together with the record. The Supreme Court shall adopt, modify or reverse the recommendation of the Board by written order. A copy of the order shall be mailed to the respondent LPO and the Board by the Clerk of the court.
- C. Finality. An opinion in a disciplinary proceeding is final when filed unless the court specifically provides otherwise.

#### **RULE 3.2**

##### **Suspended or Revoked LPOs**

- A. A revoked LPO, or one that is suspended for longer than thirty (30) days, shall promptly notify by registered or certified mail, return receipt requested, all clients being represented in pending matters of the revocation or suspension and the consequent inability to act as a Limited Practice Officer after the effective date of the revocation or suspension and shall advise clients to seek services elsewhere.
- B. The revoked or suspended LPO, after entry of the revocation or suspension order, shall not accept any new clients or engage in work as an LPO in any matter.
- C. Within ten (10) days after the effective date of the revocation or suspension order, the revoked or suspended LPO shall file with the Clerk of the Supreme Court an affidavit showing:
  - 1. That the LPO has fully complied with the provision of the order and with these rules;
  - 2. The residence or other address of the revoked or suspended LPO where communications may hereafter be directed to the LPO; and
  - 3. Attaching to such affidavit a copy of the form of letter of notification sent to clients, together with a list of the names and addresses of all clients to whom such notice was sent.

- D. The Board shall cause a notice of the suspension or revocation to be published in the Washington State Escrow Association newsletter and a newspaper of general circulation in the county in which the disciplined LPO worked.
- E. A revoked or suspended LPO shall keep and maintain written records of the various steps taken by the LPO under these rules so that, upon any subsequent proceeding instituted by or against the LPO, proof of compliance with these rules and with the revocation or suspension order will be available. Proof of compliance with these rules shall be a condition precedent to any petition for reinstatement.

## **TITLE 4. COSTS**

### **RULE 4.1**

#### **Costs and Expenses**

In all cases resulting in the administration of admonition, censure, reprimand, suspension or revocation pursuant to these rules, the Chair of the Board shall serve upon the respondent LPO and file in the office of the OAC the verified statement of cost and expenses for the disciplinary proceedings to the time the Board makes its recommendation.

- A. Costs and Expenses Defined. The term "costs" is defined to be all sums so taxable in civil proceedings. The term "expenses" is defined as all other obligations in money reasonably and necessarily incurred by the Board in the complete performance of its duties under these rules; such as but not limited to necessary expenses of the Disciplinary Panel or Board members, charges of expert witnesses, charges of court reporters, reasonable attorney's fee, as well as other direct provable expenses. The Board may waive payment of any and all costs and expenses if it deems such waiver to be in the interests of justice.
- B. Statement of Costs and Expenses. In all cases in which the Board determines that an admonition, censure or reprimand should be administered, the statement of costs and expenses shall be served on the respondent LPO at the time the LPO is notified of the Board's recommendation, together with a statement by said Board as to the amount of said costs and expenses which it, in its discretion, deems just to assess against the respondent LPO.
- C. Assessment on Suspension or Revocation. In all cases in which the Board recommends suspension or revocation, the statement of costs and expenses together with a statement by the Board as to the amount of the costs and expenses which it, in its discretion, deems just to assess against the respondent LPO at the time the LPO is notified of the recommendation of the Board, shall be a part of the record sent to the Clerk of the Supreme Court.

- D. Payment of Costs and Expenses. In all cases where disciplinary action results, the respondent LPO shall pay the assessed costs and expenses within thirty (30) days or such longer period of time as is determined by the Board in its discretion. Should the respondent LPO fail to pay the costs and expenses as herein provided, such failure shall be grounds for suspension, and the Board may move the Supreme Court for an order suspending the LPO until the costs and expenses are paid.
- E. Assessment Upon Dismissal of Charges. In cases in which the Board dismisses the charges, the Board may fix the amount of the LPO's costs and expenses which the Board, in its discretion, deems just to assess against the complainant.
- F. Determination of Costs by Supreme Court. The Board and the respondent LPO shall each submit a verified cost statement to the Clerk of the Supreme Court which shall be served on the adverse party within ten (10) days after the cause has been submitted to that court. The parties shall have ten (10) days after such service within which to file exceptions thereto. The judgment of the Supreme Court, in any suspension or revocation proceeding, shall fix the amount of the costs and expenses to be paid by the parties as it shall deem just.

#### RULE 4.2

#### **Termination of Suspension**

No suspended LPO shall resume working as a Limited Practice Officer until the amount of the costs and expenses fixed pursuant to these rules has been fully paid.

### **TITLE 5. REINSTATEMENT AFTER REVOCATION**

#### RULE 5.1

#### **Restrictions Against Petitioning**

- A. When Petition May Be Filed. No petition for reinstatement shall be filed within a period of two (2) years after revocation or within one (1) year after an adverse decision of the Supreme Court upon a former petition, or within a period of six (6) months after an adverse recommendation of the Board on a former petition when that recommendation is not submitted to the Supreme Court. If prior to revocation the LPO was suspended pursuant to the provisions of Rule 6.2 herein, or any comparable rule, the period of suspension shall be credited toward the two (2) years referred to above.
- B. Payment of Obligations. No revoked LPO may file a petition for reinstatement until costs and expenses assessed pursuant to these rules, and restitution ordered as provided, have been paid by the revoked LPO.

## RULE 5.2

### **Reversal of Conviction**

If an LPO has been revoked solely because of the LPO's conviction of a crime and the conviction is later reversed and the charges dismissed on their merits, the Supreme Court may in its discretion, upon direct application by the LPO, enter an order reinstating the LPO to limited practice under APR 12. At the time such direct application is filed with the court, a copy shall be filed with the Board.

## RULE 5.3

### **Form of Petition**

A petition for reinstatement as an LPO after revocation shall be in writing in such form as the Board may prescribe. The petition shall set forth the age, residence and address of the petitioner, the date of revocation, and a concise statement of facts claimed to justify reinstatement. The petition shall be accompanied by the total fees required for application under APR 12.

## RULE 5.4

### **Investigation**

The Board may, in its discretion, refer the petition for reinstatement for investigation and report to counsel appointed by the Board, if any, or such other person or persons as may be determined by the Board.

## RULE 5.5

### **Hearing Before Board**

- A. Notice. The Board may fix a time and place for a hearing on the petition and shall serve notice thereof ten (10) days prior to the hearing upon the petitioner and upon such other persons as may be ordered by the Board. Notice of the hearing shall also be published in such newspaper or periodical as the Board shall direct. Such published notice shall contain a statement that a petition for reinstatement has been filed and shall give the date fixed for the hearing.
- B. Statement in Support or Opposition. On or prior to the date of hearing, anyone wishing to do so may file with the Board a written statement for or against reinstatement, such statements to set forth factual matters showing that the petitioner does or does not meet the requirements of Rule 5.6 A. Except by its leave, no person other than the petitioner or petitioner's counsel shall be heard orally by the Board.

## RULE 5.6

### **Action by Board**

- A. Requirements for Favorable Recommendation. Reinstatement may be recommended by the Board only upon an affirmative showing that the petitioner possesses the qualifications and meets the requirements as set forth by the Board and APR 12, and that the LPO's reinstatement will not be contrary to the public interest.
- B. Action on Recommendation. The recommendation of the Board shall be served upon the petitioner. If the Board recommends reinstatement, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the Board recommends against reinstatement, the record and recommendation shall be retained in the office of the OAC unless the petitioner requests that it be submitted to the Supreme Court. If the petitioner so requests, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the petitioner does not so request, the examination fee shall be refunded to the petitioner, but the petitioner shall still be responsible for payment of costs incidental to the reinstatement proceeding as directed by the Board.

## RULE 5.7

### **Action on Supreme Court's Determination**

- A. Petition Approved. If the petition for reinstatement is granted by the Supreme Court, the reinstatement shall be subject to the petitioner's taking and passing the examination for APR 12 applicants and paying the costs incidental to the reinstatement proceeding as directed by the Supreme Court.
- B. Petition Denied. If the petition for reinstatement be denied, the examination fee shall be refunded to the petitioner, but the petitioner shall still be responsible for payment of the costs incidental to the reinstatement proceeding.

## **TITLE 6. SUSPENSION**

### RULE 6.1

#### **Suspension for Conviction of Felony**

- A. Suspension Automatic. An LPO shall be automatically suspended under APR 12 upon the conviction of a felony under either state or federal law, whether such conviction be after a plea of guilty, nolo contendere, not guilty, or otherwise, and regardless of the pendency of an appeal, and upon the filing of a certified copy of such conviction with the Clerk of the Supreme Court. Provided, however, that the Board may recommend to the Supreme Court for final disposition the prevention or termination of the suspension if the Board

affirmatively finds that moral turpitude was not an element of the crime of which the LPO was convicted, or if the Board affirmatively finds that there is other good cause for preventing or terminating the suspension. Suspension in this manner shall not be a substitute or alternative for disciplinary proceedings against the LPO, but such proceedings shall be commenced upon the conviction, or prior thereto if reasonable cause therefor exists and shall proceed without regard to the suspension.

- B. Duration. When an LPO is suspended upon conviction of a felony as provided in this rule, the duration of such suspension shall not exceed final disposition of the disciplinary proceedings commenced against the LPO. When the disciplinary proceedings are fully completed, after appeal or otherwise, the suspension occurring in this manner shall end and such disciplinary action as then occurs shall commence.
- C. Petition for Reinstatement. A petition for reinstatement after automatic suspension for conviction of a felony pending completion of disciplinary proceedings shall be in writing and verified by the petitioner and filed with the Board at the OAC office. The petition shall set forth the age, residence and address of the petitioner, the date of the conviction and a concise statement of the facts claimed to justify reinstatement pending completion of the disciplinary proceedings. The petition shall be accompanied by the application for admission and the total fees required for certification under APR 12.
- D. Investigation. In its discretion, the Board may refer the petition for reinstatement for investigation and report to the Disciplinary Panel or to such other person or persons as may be determined by the Board.
- E. Notice of Hearing. The Board shall fix a time and place for hearing of the petition by the Board and shall serve notice thereof ten (10) days prior to the hearing upon the petitioner and upon such persons as may be ordered by the Board.
- F. Requirements and Procedure. Such petition for reinstatement shall be recommended to the Supreme Court only upon affirmation showing to the satisfaction of the Board that the petitioner possesses the qualifications and requirements for certification under APR 12 and that the LPO's reinstatement will not be detrimental to the integrity of the profession or be contrary to the public interest.
- G. Granting or Denial of the Petition by the Supreme Court. The Board shall keep a record of the hearing upon the petition for reinstatement and shall make and file its findings, conclusions and recommendation thereon with the Supreme Court for final disposition.

RULE 6.2

**Suspension During Pendency of Disciplinary Proceedings**

- A. Supreme Court May Suspend. At any time after institution of the disciplinary proceeding under Rule 1.6, where it appears that a continuation of certification under APR 12 by an LPO will result in substantial risk of injury to the public, the Board may recommend on petition to the Supreme Court for an order suspending the respondent LPO during the pendency of the disciplinary proceedings. If the court finds a risk of injury to the public, it may enter an order suspending the LPO from certification under APR 12. Such suspension shall not continue beyond the conclusion of the disciplinary proceedings.
- B. Petition and Notice to Answer. The petition to the Supreme Court under this rule shall set forth the acts and omissions of the respondent LPO contained in the pending complaint, together with such other facts as may constitute grounds for suspension pending disciplinary proceedings. The petition may be supported by documents or affidavits. An order to show cause to be signed by the Chief Justice of the Supreme Court shall be issued thereon requiring the respondent LPO to be and appear before the Supreme Court on that court's first motion day following the expiration of seven (7) calendar days after the date on which the show cause order was signed, or on such other date as the Chief Justice may set, then and there to show cause why the prayer of the Petition for Suspension Pending Disciplinary Proceedings should not be granted.
- C. Service. Service of the petition and order to show cause shall be by service of a certified copy of such order to show cause and an uncertified copy of such petition served in the manner provided in Rule 1.7 C(1) at least five (5) calendar days before the scheduled show cause hearing.
- D. Answer to Petition. The answer may contain additional facts relating only to the issue of substantial risk of injury to the public, shall be verified by the respondent LPO or the LPO's counsel, and may be supported by documents or affidavits. The answer shall be filed with the Clerk of the Supreme Court at least three (3) days before the scheduled show cause hearing. For good cause shown, the Chief Justice may extend the time for answer.
- E. Service of Answer. A copy of the answer shall be served on the Board at the OAC.
- F. Costs. No costs shall be assessed.

## **TITLE 7. SUSPENSION FOR CUMULATIVE DISCIPLINE**

### **RULE 7.1**

#### **Criteria**

An LPO disciplined who has a record of:

- A. Three or more admonitions, censures, and/or reprimands, or
- B. Any combination of a suspension or revocation plus one or more admonitions, censures and/or reprimands, shall be subject to suspension from limited practice under APR 12.

### **RULE 7.2**

#### **Procedure**

- A. Upon an LPO's accumulation of discipline as provided in Rule 7.1, the Board may recommend to the Supreme Court suspension of the LPO.
- B. The Board shall file with the Supreme Court the respondent LPO's prior record of discipline and its recommendation for suspension. The respondent LPO shall be served in the manner provided in Rule 1.6 C(1) with a copy of the record filed with the Supreme Court.
- C. The Supreme Court shall allow the Board and the respondent LPO the opportunity to submit written briefs or oral arguments under such conditions and within such time as the court directs.

## **TITLE 8. GENERAL PROVISIONS**

### **RULE 8.1**

#### **Residence**

For the purposes of these rules, an LPO is a resident of that county, district or congressional district in which the LPO maintains, or last maintained, the LPO's principal office whether or not that be the LPO's place of abode.

### **RULE 8.2**

#### **Papers**

All pleadings, briefs, documents or notices in these rules provided for must be typewritten or printed on 8 1/2 by 11 inch paper.

### **RULE 8.3**



## **Documents**

Whenever in these rules it is required that any document shall be filed with the Board, such documents shall be served on the Board at the OFFICE OF THE ADMINISTRATOR FOR THE COURTS, PO BOX 41170, OLYMPIA WA 98504-1170.

### **RULE 8.4**

## **Representation of Respondent**

A former member of the Board who is also a licensed attorney in Washington shall not represent a respondent LPO in proceedings under these rules until after the lapse of two (2) years following expiration of the former Board member's term of office.

### **RULE 8.5**

## **Reciprocal Discipline**

- A. Upon receipt of a certified copy of an order demonstrating that an LPO admitted to limited practice in this state has been disciplined in another jurisdiction, the Supreme Court shall forthwith direct the Board to issue a notice directed to the respondent LPO containing:
  - 1. A copy of the order from the other jurisdiction; and
  - 2. An order directing that the respondent LPO inform the court within thirty (30) days from service of the notice, of any claim by the respondent LPO that the imposition of the identical discipline in this state would be unwarranted, and the reasons therefore.

The Board shall cause this notice to be served upon the respondent LPO in the manner provided in Rule 1.7 C(1).

- B. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this state shall be deferred until such stay expires.
- C. In all other respects, a final adjudication in another jurisdiction that an LPO has been found guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this State.

## RULE 8.6

### **Disclosure**

- A. Disciplinary Files and Records Confidential. Except as otherwise provided in these rules, the file in a disciplinary proceeding and a disciplinary record shall be open only to the Board, Disciplinary Panel, staff of the OAC and the Supreme Court if filed for recommendation or review or requested by a member of the Supreme Court; however,
1. The respondent LPO or the LPO's counsel may have access to the file consisting of the formal complaint, and all other pleadings, documents and instruments filed in the proceeding subsequent thereto.
  2. When requested by the official disciplinary body of another state in connection with a pending disciplinary action in that state, the Clerk of the Supreme Court will certify and transmit to the official disciplinary body of that state the record of the LPO involved.
- B. Disclosure. Notwithstanding all existing rules relating to confidentiality of these proceedings, the Board may inform the public of disciplinary investigation or proceedings against any LPO when, in the judgment of the Board, it is determined that the matters involved are of such grave importance that the public interest is affected thereby.
- C. Notice of Disciplinary Action Taken.
1. If an LPO be permitted to resign during the pendency of disciplinary hearings, or upon suspension or revocation, the fact of such resignation, suspension or revocation, including the LPO's name, shall be published in the Washington State Escrow Association publication.
  2. If an admonition or censure is given to an LPO who has previously been suspended or revoked or reprimanded, notice of such admonition or censure, including the LPO's name, shall be published in the publication of the Washington State Escrow Association.
  3. Notice of all reprimands, including the LPO's name, shall be published in the publication of the Washington State Escrow Association.
- D. Disciplinary Records. The disciplinary record of an LPO shall consist of a brief summary of any complaint made against the LPO and the disposition or status thereof. Information with reference thereto may be released by the Board when:
1. Specified by these rules;
  2. Requested in writing by the LPO;

3. Requested by the Chair of the Disciplinary Panel;
  4. Directed by the Board in the public interest; or
  5. Directed by the Supreme Court.
- E. Contempt. Disclosure, except as herein provided, of any matter made confidential by these rules by any person whomsoever shall subject such person to a proceeding as for contempt.

## **TITLE 9. EXONERATION FROM LIABILITY**

### **RULE 9.1**

#### **Exoneration from Liability**

- A. Board and its Agents. No cause of action shall accrue in favor of a respondent LPO or any other person arising from an investigation or proceeding pursuant to these rules against the Limited Practice Board, its members or agents (including, but not limited to, its staff, Disciplinary Panel or staff of the Administrator for the Courts) provided that such Board or individual shall have acted in good faith. The burden of proving bad faith in this context shall be upon the party asserting same. The state shall provide a defense to any action brought against a member or agent of the Board for actions taken in good faith under these rules and the state shall bear the cost of the defense.
- B. Complainants and Witnesses. Communications to the Board, Disciplinary Panel, OAC staff, or any other individual acting under authority of these rules, are absolutely privileged.

## **TITLE 10. EXAMINATION OF BOOKS AND RECORDS**

### **RULE 10.1**

#### **Examination and Investigation of Books and Records**

The Board and its Chair shall have the following authority to examine and investigate the books and records of any LPO, with or without notice. The Board may authorize examinations of documents selected, prepared, and completed by authority of APR 12 of any LPO or firm by which LPO's are employed in conjunction with an investigation. Such examination shall extend only to documents selected, prepared, and completed by authority of APR 12 of such LPO or firm. Upon the examination set forth above, if the Chair of the Board shall determine that further examination is warranted, the Chair may then order an appropriate examination of the LPO's or the firm's documents which were selected, prepared, and completed by authority of APR 12, including verification of the information therein from available sources.

## RULE 10.2

### **Cooperation of LPO**

It shall be the duty and obligation of any LPO or firm who is subject to examination and investigation under Rule 10.1 to cooperate with the person conducting the examination, investigation or examination subject only to the proper exercise of any privilege against self-incrimination where applicable, by:

- A. Producing to such person forthwith all evidence and documents selected, prepared, and completed by authority of APR 12 as such person shall request for the purpose of the examination and investigation; and
- B. Furnishing forthwith explanations as such person may require for the purpose of the examination and investigation.

## RULE 10.3

### **Disclosure**

The examination and investigation report shall be open to the Disciplinary Panel, the Board and the LPO examined unless a disciplinary proceeding be commenced in which event the disclosure provision of Rule 8.6 shall apply.

## RULE 10.4

### **Regulations**

The Board may adopt regulations pursuant to its powers set forth in this rule subject to the approval of the Supreme Court.

## **TITLE 11. AUDITS AND TRUST ACCOUNT**

## RULE 11.1

### **Audits and Investigation of Books and Records**

The Board and its chairperson shall have the following authority to examine, investigate and audit the books and records of any LPO for the purpose of ascertaining and reporting whether APR 12.1 has been or is being complied with by such LPO:

- A. Random Examination. The Board may from time to time authorize examinations of the books and records of any LPO or closing firm selected at random. Such examination shall extend only to books and records of such LPO and to all transactions of the closing firm in which an LPO participated.

- B. Particular Examination. The Chair of the Board may, upon receipt of information that a particular LPO or closing firm may not be in compliance with APR 12.1, authorize an examination limited to the scope set forth in Section A. Such information may be presented to the Chair without notice to the LPO or closing firm.
- C. Audit. Upon the examination set forth in Section A or B, if the Chair of the Board shall determine that further examination is warranted, the Chair may then order an appropriate audit of the LPO's or closing firm's books and records, including verification of the information therein from available sources.

### RULE 11.2

#### **Cooperation of LPO**

It shall be the duty and obligation of any LPO or closing firm who is subject to examination, investigation and audit under Rule 11.1 to cooperate with the person conducting the examination, investigation or audit, subject only to the proper exercise of any privilege against self-incrimination where applicable, by:

- A. Producing for such person forthwith all evidence, books, records and papers as such person shall request for the purpose of his or her examination, investigation or audit;
- B. Furnishing forthwith such explanations as the person may require for the purpose of his or her examination, investigation or audit;
- C. Producing, in those cases where the examination, investigation or audit is being conducted pursuant to Rule 11.1, to such person forthwith written authorization, directed to any bank or depository, for the person to examine, investigate or audit trust and general accounts, safe deposit boxes and other forms of maintaining trust property by the LPO or closing firm in such bank or depository.

### RULE 11.3

#### **Disclosure**

The examination and audit report shall be open to the Board, the LPO or closing firm examined, investigated or audited.

### RULE 11.4

#### **Declaration or Questionnaire**

- A. Questionnaire. The Board shall cause to be directed annually to each active LPO a written declaration or questionnaire designed to determine whether such LPO is complying with APR 12.1. Such declaration or questionnaire shall be completed, executed and delivered to the OAC on or before the date of delivery specified in such declaration or questionnaire.

- B. Noncompliance. Failure to file the declaration or questionnaire on or before the date specified in Section A shall be grounds for discipline. Such failure shall also subject the LPO who has failed to comply with this rule to a full audit of his or her books and records as provided in Rule 11.1 (C) upon request of the Board Chair. A copy of the request made under this section shall be served upon the LPO involved. The request shall be granted upon a showing that the LPO has failed to comply with Section A of this rule. If the LPO shall later comply, the Chair of the Board shall have discretion to determine whether an audit should be conducted, and if so the scope of the audit. An LPO audited pursuant to this section shall be liable for the actual costs of conducting such audit.

#### RULE 11.5

#### **Regulations**

The Board may adopt regulations pursuant to its powers set forth in this rule subject to the approval of the Supreme Court.

## Disciplinary Regulations

## **DISCIPLINARY REGULATIONS**

### **REGULATION 101**

#### **Definitions**

As used in these Regulations, the following definitions shall apply:

- A. The term “closing firm” is defined in APR 12.1.
- B. The “auditor” shall mean the person or accounting firm conducting the audits and examinations specified in Disciplinary Rules Title 11.
- C. “Examination” shall mean a review and testing by the audit of the internal controls and procedures by an LPO or closing firm to receive, hold, disburse and account for money and property in which the client or other person has an interest using generally accepted auditing standards, to the extent they apply, without, however, making outside confirmations. In order to conduct such review and testing, the auditor shall have access to all of the internal books and records kept by the LPO or closing firm which comprise the LPO’s or closing firm’s financial records showing financial transactions involving the receipt of client’s funds for fees, costs, or other purposes, either from the client or third persons and all expenditures by the closing firm or LPO for clients or third persons and all distributions to the LPO or LPOs including but not necessarily limited to all journals, ledgers, books of accounts, canceled checks, deposit slips, bank statements, check registers, cash accounts, receipts, correspondence, records of accounts receivable, income and expense statements, balance sheets, tax returns of all types, federal, state, county, and city excepting, however, income tax returns.
- D. “Audit” shall encompass “examination” but in addition may include positive or negative confirmation from external sources.

### **REGULATION 102**

#### **Persons Authorized to Conduct Audits**

- A. The Board may from time to time select such person or persons or accounting firms as the Board deems qualified to conduct the audits and examinations specified in Disciplinary Rules Title 11.



- B. If the Board selects as auditor or auditors persons who are independent contractors, they may be hired to perform all or some examinations or audits or solely for the performance of a particular examination or audit. No auditor shall perform an audit or examination for a closing firm or LPO for whom the auditor has performed accounting work in the two (2) years preceding the date of the proposed examination or audit. The auditor, as a condition of employment, shall agree that neither the auditor nor any accounting firm with which the auditor is associated, will perform accounting work for any LPO or closing firm which the auditor audits or examines for a period of not less than two (2) years following the date of said audit or examination, whichever is later; however, this shall not preclude performance of accounting work for clients of the LPO or closing firm, nor preclude the auditor from being a lay or expert witness on behalf of a client or the LPO or closing firm.
- C. Compensation of the auditor or auditors shall be determined by the Board.

### REGULATION 103

#### **Examination and Audit Reports**

- A. The auditor shall furnish a written report of each examination or audit to the Board.
- B. The report shall contain the date of the audit or examination, the name of the closing firm or LPO, and a statement of the scope of the examination or audit. In respect to each examination, it shall include a statement to the effect that either 1) as a result of the examination, an audit or further examination is indicated, or 2) during the course of the examination, the auditor has not observed anything which would indicate a need for further examination or audit at this time. In respect to each audit, the report shall state either 1) as a result of the audit, the auditor concludes that APR 12.1 has not been complied with (stating the particulars), or 2) as a result of the audit, the auditor has not observed anything which would indicate APR 12.1 has not been complied with. The auditor shall further state an opinion, as to whether the LPO or closing firm has cooperated as required by Disciplinary Rule 11.2, giving the particulars if lack of cooperation is claimed.
- C. Upon request by the Chair, the auditor shall make available the working papers in respect to particular examinations or audits, for review by the Board and shall consult with the Board in respect to particular examinations and audits.
- D. Upon conclusion of the examination or audit, the auditor shall make available to the LPO or closing firm a copy of the audit report.
- E. The auditor shall preserve inviolate all confidences and secrets of clients of the examined LPO or closing firm. No client name or information which would permit the identification of a particular client shall be revealed in the working papers or the report of the auditor, except that the name or names of clients who have filed complaints with the Board may be released. As a condition of the auditor's employment, the Board shall require such undertakings of the auditor as may be required to insure compliance with this regulation.
- F. When the audit is concluded, if it is determined pursuant to Regulation 104 A. that no further investigation, examination or action is appropriate, the Board's copies of the audit

report, working papers, or other materials relating to the audit shall be destroyed, except that the Board shall maintain a record showing the identity of any LPO or closing firm audited and the dates of the audit to ensure that the restrictions of Regulation 105 A. are complied with.

#### REGULATION 104

##### **Determination that Further Examination and Audit or Other Actions Are Warranted.**

The Chair or a delegate shall review all reports of the auditor, After such review and upon further investigation, which the Chair may direct, and after such consultation, if any, as the Chair deems appropriate with the Board, the Chair shall make such order in respect to further examination and audit as the Chair deems appropriate, consistent with Disciplinary Rule 11.1. In addition, the Chair may order other actions by the LPO as are necessary to ensure that the LPO's handling of client funds complies with the requirements of the Disciplinary Rules.

#### REGULATION 104A

##### **Auditor's Opinions Advisory Only.**

The opinions expressed in the report of the Auditor shall be advisory only. They shall not in and of themselves constitute findings of fact in any disciplinary proceedings against any LPO unless so stipulated by the LPO or LPO's counsel.

#### REGULATION 105

##### **Method of Selection of LPO and Closing Firms to be Examined**

- A. At such time and from time to time as the Board determines, random examination of LPOs or closing firms may be conducted. Procedures shall be established by the Board for the selection of the LPOs or closing firms to be examined which 1) will utilize the principle of random selection, and 2) will distribute the examinations among the congressional districts of the state substantially in the ratio that the number of LPOs in each district bears to the total number of active LPOs in the state. For example, the Board may 1) determine the total number of examinations which can be made during the time period in question by the auditor or auditors, 2) allocate the number of examinations to each district substantially in the ratio that the number of active LPOs therein bears to all active LPOs in the state, and 3) select the LPOs by random within each group. If the number drawn is that of an LPO who is an employee of a closing firm, the closing firm shall be examined. If the number is that of an active LPO who is a business owner, the active LPO's records shall be examined. If the number is that of an LPO who, either as an individual or as a closing firm employee, has been audited in the twenty-four (24) months immediately preceding the drawing, the Chair may in the Chair's discretion excuse the LPO or closing firm from examination.
- B. Upon consent of an active LPO, the LPO's books and records or those of a closing firm may be examined even though the active LPO's number has not been selected randomly.

- C. The Chair may at all times upon the receipt of information that a particular LPO or closing firm may not be in compliance with APR 12.1 authorize an examination.

### REGULATION 106

#### **Contents of LPO Declaration**

In December of each year, the Board shall mail to each active LPO, a written questionnaire. The completed questionnaire shall be delivered by the LPO to the Board on or before January 31 of the following year. The questionnaire shall be comprised of two parts. Parts One and Two shall be completed and signed by each active LPO, provided that Part Two, in lieu of completion and signing by each individual active LPO in a closing firm, may be completed and signed by an authorized member of the firm on behalf of all LPOs employed in the firm. Parts One and Two each shall be separately signed and verified by the signer under penalty of perjury and shall require disclosure of the following information:

#### **Part I - LPO Verification**

1. Name, current address and telephone number of the LPO.
2. Whether the LPO is actively closing real and/or personal property transactions.
3. If the answer to “2” is no, whether the LPO is nonetheless engaged in any LPO activities which involves or might involve the handling of client’s funds or property.
4. Whether the LPO or closing firm maintain identifiable bank account(s) within the state for the deposit of funds of clients and a record keeping system to record funds, securities and other properties of clients coming into the LPO’s or closing firm’s possession (to be answered by all LPOs unless the answers to both “2” and “3” are “no”).

## **Part II - Account Information Verification**

1. The name of the bank(s) and branch(es) where the separate identifiable bank accounts are maintained as the depository (or depositories) for client funds.
2. Whether the accounts identified in “1” above are maintained in the manner specified in APR 12.1, and whether all clients’ funds to the extent required by APR 12.1 are kept therein.
3. Whether all funds, securities, and other properties of clients coming into the LPO’s or closing firm’s possession are held in the manner specified in APR 12.1 and whether records in respect thereto are maintained in the manner specified in APR 12.1.

Part Two may also require disclosure of the account numbers for each separate identifiable bank account maintained as a depository for client funds.



# **CONTINUING EDUCATION REGULATIONS OF THE LIMITED PRACTICE BOARD**

## **REGULATION 101**

### **Definitions**

As used in these regulations, the following definitions shall apply:

- A. A "Limited Practice Officer" (LPO) shall mean any person admitted to practice under Washington Supreme Court Rule APR 12.
- B. An "approved" education activity shall mean an individual seminar, course, or other continuing education activity approved by the Continuing Education Committee of the Limited Practice Board.
- C. A "credit hour" equals one (1) clock hour of actual attendance.
- D. The "Committee" shall mean the Continuing Education Committee of the Limited Practice Board.
- E. The "staff" shall mean the staff of the Office of the Administrator for the Courts.
- F. "APR 12" shall mean Admission to Practice Rule 12, together with any subsequent amendments thereto, as adopted by the Supreme Court of the state of Washington.
- G. "Teaching" in an approved continuing education activity shall mean and encompass the preparation and/or delivery of a prepared talk, lecture, or address at such activity.
- H. "Participating" in an approved continuing education activity shall mean and encompass: 1) acting as a planning and organizing chair of such activity, or 2) taking part in such activity as a member of a panel discussion, without the preparation of written materials or the delivery of a prepared talk, lecture, or address.
- I. "Calendar year" shall mean January 1 to December 31.
- J. To qualify for "liability credit," a course or subject must deal with the legal rights, duties, or responsibilities of LPOs.

## REGULATION 102

### **Continuing Education Requirement**

As provided for in Rule 15 of the Rules of Admission and Certification, each Limited Practice Officer shall complete a minimum of ten (10) credit hours of approved education during each calendar year beginning January 1, 1985, except as exempted by Regulation 114. Two (2) hours of the required ten (10) hours of continuing education per year must be on liability issues. These classes must be approved by the Board and must be taken annually beginning in 1989. If an active LPO completes more than ten (10) such credit hours in a given calendar year, the excess credit, up to ten (10) credits, may be carried forward and applied to such LPO's education requirement for the next calendar year. Liability credit hours may be carried forward as liability credits or regular credits. Failure to comply with the provisions of this Regulation and Rule 15 each calendar year shall subject the Limited Practice Officer to disciplinary action.

## REGULATION 103

### **Credits/Computation**

- A. Continuing education credit may be obtained by attending, teaching, or participating in, continuing education activities which have 1) been previously approved by the Committee, or 2) have been afforded retroactive approval by the Committee pursuant to APR 12 and these regulations.
- B. A credit shall be awarded for each hour actually spent by an active LPO in attendance at an approved education activity.
- C. Credit will not be given for time spent in meal breaks. Credit will not be given for speeches presented at meal functions.
- D. Excess or "carry-over" credits may be applied to the succeeding calendar year's credit hour requirement. Such credits shall be reported to the Committee on or before January 31 as required by Regulation 108 A.
- E. Credit toward the continuing education requirements set forth in APR 12 and Regulation 102 may be earned through teaching or participating in an approved continuing education activity on the following basis:
  - 1. An active LPO teaching in an approved education activity shall receive credit on the basis of one (1) credit for each hour actually spent by such LPO in attendance at and teaching in a presentation of such activity. Additionally, an active LPO teaching in such an activity shall also be awarded further credit on the basis of one credit for each hour actually spent in preparation time, provided that in no event shall more than ten (10) hours of credit be awarded for the preparation of one (1) hour or less of actual presentation.

2. An active LPO participating in an approved educational activity shall receive credit on the basis of one (1) credit for each hour actually spent by such LPO in attendance at a presentation of such activity. Additionally, an active LPO participating in such an activity shall also be awarded further credit on the basis of one (1) credit for each hour actually spent in preparation time, provided that in no event shall more than five (5) hours of credit be awarded for such preparation time in any one such continuing education activity.

#### REGULATION 104

#### **Standards for Approval**

The following standards shall be met by any course or activity for which approval is sought:

- A. The course shall have significant intellectual or practical content and its primary objective shall be to increase the attendee's professional competence as an LPO.
- B. The course shall constitute an organized program of learning dealing with matters directly relating to the limited practice of law and/or to the professional responsibility or ethical obligations of an LPO.
- C. Each faculty member shall be qualified by practical or academic experience to teach a specific subject.
- D. Thorough, high quality, readable, and carefully prepared written materials should be distributed to all attendees at or before the time the course is presented. It is recognized that written materials are not suitable or readily available for some types of subjects; the absence of written materials for distribution should, however, be the exception and not the rule.
- E. Courses should be conducted in a setting physically suitable to the educational activity of the program. A suitable writing surface should be provided where feasible.
- F. No course will be approved which involves solely television viewing in the home or office or correspondence work or self-study. Video, motion picture, or sound tape presentations may be approved, provided a teacher or moderator is in attendance at each presentation to comment thereon, answer questions, or conduct the discussion.

#### REGULATION 105

#### **Procedure for Approval of Continuing Education Activities**

- A. An active LPO or sponsoring agency desiring approval of a continuing education activity shall submit to the Committee all information called for by Form 1 at least thirty (30) days prior to the date scheduled for the class, along with an application fee of \$25.00 for each occurrence.



- B. Approval shall be granted or denied in accordance with the provisions of Regulation 107 herein. Upon approval of the activity, a list of certified limited practice officers will be provided to the class sponsor if requested in the initial application, along with written acknowledgment of approval.
- C. As to a course that has been approved, the sponsoring agency may announce, in informational brochures and/or registration materials: "This course has been approved by the Continuing Education Committee of the Limited Practice Board for \_\_\_\_ hours of credit."
- D. On the date of the continuing education activity, the sponsoring agency shall give a copy of the LPB course approval form to each LPO attending.

#### REGULATION 106

##### **Delegation**

- A. To facilitate the orderly and prompt administration of APR 12 and these regulations, and to expedite the processes of, inter alia, course approval, and the interpretation of these regulations, the staff of the Office of the Administrator for the Courts may act on behalf of the Committee under APR 12 and these regulations. Any adverse determinations and all questions of interpretation of these regulations of APR 12 by the staff shall be subject to review by the Committee upon written application by person adversely affected.
- B. The Committee may organize itself into committees and/or appoint subcommittees for the purpose of considering and deciding matters arising under APR 12 and these regulations.

#### REGULATION 107

##### **Staff Determinations and Review**

- A. Staff of the Office of the Administrator for the Courts shall, in accordance with Regulations 104 and 106, respond in writing to all written requests for course approval and interpretation of the continuing education regulations of APR 12. The staff may seek a determination of the Committee before making such response. At each meeting of the Committee, the staff shall report on all determinations made since the last meeting of the Committee.
- B. The Committee shall review any adverse determination of the staff. An active LPO or the sponsoring agency affected may, at the discretion of the Committee Chair, present information to the Committee in writing, in person, or both. If the Committee finds that the staff has incorrectly interpreted the facts, the provisions of APR 12, or the provisions of these regulations, it may take such action as may be appropriate. The Committee shall advise the active LPO or sponsoring agency affected of its findings and any action taken.

## REGULATION 108

### **Submission of Information--Reporting of Attendance**

- A. Compliance Report. Each active LPO shall, on or before January 31 of each year, commencing January 31, 1986, submit an affidavit to the Committee, at the Office of the Administrator for the Courts, setting forth all information required by Form No. 2, concerning such active LPO's completion of approved continuing education during the preceding calendar year. Such affidavit shall also contain a report of "carryover" credits, if any, as delineated in Regulation 102.
- B. Supplemental Report. If an active LPO has not completed the minimum education requirement for the preceding calendar year, or complied with Regulation 108 A, compliance may still be accomplished by:
1. Submitting by April 30 the affidavit called for by Regulation 108 A (Form 2) setting forth therein the extent of the active LPO's compliance with the minimum education requirement, **AND**
  2. Paying at the time of filing such supplemental affidavit a special \$50 service fee.
- C. An active LPO who fails to comply with the provisions of this regulation shall be subject to the procedures and provisions of Regulation 111.

## REGULATION 109

### **Submission of Information--Credit for Teaching or Participating**

An active LPO who seeks credit for teaching or participating in an approved continuing education activity pursuant to Regulation 103 E, shall, on or before January 31 of the year following the calendar year in which such teaching or participating was accomplished, submit an affidavit to the Committee, at the Office of the Administrator for the Courts, setting forth all information required by the appropriate portions of Form 3, concerning such teaching and/or participating in approved education courses or activities during the preceding calendar year.

## REGULATION 110

### **Extensions, Waivers, Modifications**

The Committee may grant extensions, waivers, or modifications of these regulations in cases of undue hardship, age, or infirmity. Requests for extensions, waivers, or modifications shall be made in writing.

### REGULATION 111

#### **Non-compliance--Board Procedures**

An active LPO who has not complied with the educational or reporting requirements of APR 12 and these regulations by April 30 of each year, commencing with April 30, 1986, may be removed (or conditionally removed) from the roll of certified LPO's and suspended until compliance with the regulations.

To effect such removal, the Committee shall send to the non-complying LPO by certified mail, directed to the LPO's last known address as maintained on the records of the Office of the Administrator for the Courts, a written notice of non-compliance. The notice shall advise such active LPO of the pendency of removal proceedings unless within ten (10) days of receipt of such notice such active LPO completes and returns to the Committee an accompanying form of petition, to which supportive affidavit(s) may be attached for extension of time for, or waiver of, compliance with the requirements of APR 12 and these regulations or for a ruling by the Committee of substantial compliance with the requirements.

- A. If such petition is not filed, such lack of action shall be deemed acquiescence by the active LPO in the finding of non-compliance. The Committee shall report such fact to the Board with the Committee's recommendations for appropriate action. The Board shall take such action as it deems appropriate.
- B. If such petition is filed, the Committee may, at its discretion, approve the same without hearing or may enter into an agreement on terms with such active LPO as to time and other requirements for achieving compliance with APR 12 and these regulations.
- C. If the Committee does not approve such petition or enter into such agreement, the affected LPO may request a hearing before the Board. At the discretion of the Chair of the Board, the hearing may be held before the entire Board or panel thereof. The Board or panel thereof shall enter written findings of fact and an appropriate order, a copy of which shall be transmitted by certified mail to the active LPO affected at the address of such member on file with the Office of the Administrator for the Courts. Any such order shall be final and, in case of an adverse determination, shall be transmitted to the Supreme Court.

### REGULATION 112

#### **Appeals to the Supreme Court**

An adverse decision of the Board may be appealed by the active LPO affected to the Supreme Court in accordance with the applicable provisions of APR 12. As to such appeals, the Board shall be represented by counsel as the Board may designate.

### REGULATION 113

#### **Reactivation of Inactive Members**

A person desiring transfer from inactive to active status must comply with the applicable rules and procedures of the Board pertaining to such change of membership status, including the filing of an application with the Board in such form as is prescribed by the Board. The Board shall determine whether such application shall be granted. Compliance with APR 12 and these regulations is only one factor pertaining to such determination.

### REGULATION 114

#### **Exemptions**

New Admission. An active LPO shall not be required to comply with the minimum continuing education requirements of APR 12, as implemented by these regulations, during the calendar year in which the LPO is admitted to practice.

### REGULATION 115

#### **Rulemaking Authority**

The Committee, subject to the approval of the Board, has continuing authority to make or amend regulations consistent with APR 12 in furtherance of the development of continuing education for LPO's and the regulation thereof.

### REGULATION 116

#### **Confidentiality**

The files and records of the Committee shall be deemed confidential and shall not be disclosed except in furtherance of the Committee's duties, or upon the request of an affected LPO member, or pursuant to a proper subpoena duces tecum, or as directed by the Supreme Court.

**LIMITED PRACTICE BOARD**  
**APPLICATION FOR APPROVAL OF CONTINUING EDUCATION ACTIVITY**

1. Title of educational activity:

---

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2. Date and exact location (city, building, room) of presentation:

*Date*

*Location*

---

3. Name, address and phone number of sponsoring agency:

---

---

4. **TOTAL** number of credit hours requested (including liability):

*CEU* \_\_\_\_\_ *Liability* \_\_\_\_\_

5. Please rate degree of course difficulty: *Beginning* ☐ *Intermediate* ☐ *Advanced* ☐

6. Registration fee for activity: \_\_\_\_\_

7. Faculty:

<i>Name</i>	<i>Professional Education Background</i>	<i>Practice/Teaching Experience</i>
-------------	--	---

_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Complete description of all materials to be distributed to participants (copies may be submitted in lieu of a description):

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OVER

**LIMITED PRACTICE BOARD  
AFFIDAVIT OF ATTENDANCE  
AT APPROVED CONTINUING EDUCATION ACTIVITIES  
(This form must be signed and notarized)**

1. Name \_\_\_\_\_ LPO # \_\_\_\_\_  
Company Name \_\_\_\_\_  
Company Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone # \_\_\_\_\_  
Email Address \_\_\_\_\_ FAX # \_\_\_\_\_  
Home Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone # \_\_\_\_\_

2. Period Covered: January 1, \_\_\_\_\_ through December 31, \_\_\_\_\_

3. List below all approved continuing education courses attended during the above calendar year:

Sponsor	Course Name	Date	CEU Hours	Liability Hours
---------	-------------	------	-----------	-----------------


	CEU Hours	Liability
4. Enter TOTAL number of credit hours (including liability hours)	_____	_____
5. Enter carry-over credits from preceding year (maximum is 10, of which 2 may be liability)	_____	_____
6. Enter total of lines 4 and 5	_____	_____
7. Subtract 10 (number of credits needed to satisfy current calendar year requirement and the liability requirement) from line 6	_____ -10	_____ -2
8. Enter remainder of credits. This represents excess credits to be carried over to the next calendar year (cannot exceed 10 credits, of which 2 may be liability)	_____	_____

OVER

## TRUST ACCOUNT DECLARATION

Name \_\_\_\_\_ LPO # \_\_\_\_\_

Company Name \_\_\_\_\_

Company Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone # \_\_\_\_\_

This form must be completed by all ACTIVE LPOs and returned no later than January 31, \_\_\_\_, whether or not you use or have a trust account. Failure to comply shall be grounds for discipline (DR 11.4(b)).

### Part I - LPO Verification (must be signed by individual LPO)

1. Do you certify that you have reviewed the requirements of Disciplinary Rule, Title 11 (in APR 12, pages C-27 - C-29)?  
Yes ☐ No ☐
2. Are you actively closing real and/or personal property transactions?  
Yes ☐ No ☐
3. If the answer to 2. is no, are you engaged in any LPO activities which involve or might involve the handling of client's funds or property?  
Yes ☐ No ☐
4. Do you or your employer maintain one or more accounts (in any bank, savings and loan association, or credit union authorized to do business within the state of Washington) for the deposit of funds of clients and a record keeping system to record funds, securities, and other properties of clients coming into your possession? (To be answered by all LPOs unless the answers to both 2 and 3 are "no.")  
Yes ☐ No ☐

I certify under penalty of perjury under the laws of the state of Washington that the foregoing information is true and correct.

\_\_\_\_\_  
Signature of Declaring LPO

\_\_\_\_\_  
Date signed

1. If you answered "YES" to question 4 of Part I, you are required to list: 1) the name(s) of the institutions(s); 2) the branch(es); and 3) the account number(s). *Please type or print clearly.*

Institution	Branch	Account Number
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. Do you certify that to the best of your knowledge the accounts identified in "1" above are maintained in the manner specified in APR 12.1 and that all clients' funds, to the extent required by APR 12.1, are kept therein?

Yes ☐ No ☐

3. Do you certify that to the best of your knowledge all funds, securities, and other properties of clients coming into the LPO's or closing firm's possession are held in the manner specified in APR 12.1, and that records in respect thereto are maintained in the manner specified in APR 12.1?

Yes ☐ No ☐

I certify under penalty of perjury under the laws of the state of Washington that the foregoing information is true and correct.

_____ Signature of Declaring LPO	_____ Date signed
-------------------------------------	----------------------

or

_____ Signature of Authorized Company Officer	_____ Date signed
--	----------------------

**Part II must be signed by *either* the individual LPO or an authorized officer of the company employing the LPO.**



**LIMITED PRACTICE BOARD**

**AFFIDAVIT OF TEACHING OR PARTICIPATING  
IN APPROVED CONTINUING EDUCATION COURSES**

1. Name and address of person seeking credit \_\_\_\_\_  
\_\_\_\_\_
2. Period covered: **January 1,** \_\_\_\_\_ **through December 31,** \_\_\_\_\_
3. Title of course taught or participated in \_\_\_\_\_  
\_\_\_\_\_
4. Name of sponsoring agency \_\_\_\_\_
5. Date and place where course was presented \_\_\_\_\_  
\_\_\_\_\_
6. Type of activity (teaching or participating) and credits claimed. Complete Part A or B as appropriate. See Continuing Education Regulation 103 E for explanation and computation.
  - A. Complete this portion to claim credit for **TEACHING**:
    1. Subject matter taught \_\_\_\_\_
    2. Length of teaching presentation \_\_\_\_\_
    3. Credit hours claimed for attendance \_\_\_\_\_
    4. Credit hours claimed for preparation \_\_\_\_\_
    5. Enter total of lines 3 and 4 \_\_\_\_\_

OVER

B. Complete this portion to claim credit for **PARTICIPATING**:

1. Nature of participating activity (panel discussion, participant, seminar chairperson, etc.)  
\_\_\_\_\_
2. Credit hours claimed for attendance \_\_\_\_\_
3. Credit hours claimed for participating \_\_\_\_\_
4. Enter total of lines 2 and 3 \_\_\_\_\_

I swear or affirm that the information hereon is to be best of my knowledge complete and accurate.

\_\_\_\_\_  
Signature

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Notary Public

In and for the state of Washington Residing at \_\_\_\_\_

Complete and return by January 31 to:

Limited Practice Board  
Office of the Administrator for the Courts  
PO BOX 41170  
Olympia WA 98504-1170

**NOTE:** In accordance with Regulation 108 B, a special service fee of \$50 must be paid if this form is filed **after** January 31. The deadline for late filing is **April 30**.

9. I swear or affirm that this information is, to the best of my knowledge, complete and accurate, and that I did attend, for the number of hours indicated, the courses listed on side one of this form.

\_\_\_\_\_  
Signature

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Notary Public

In and for the state of \_\_\_\_\_, residing at \_\_\_\_\_

NOTE: Pursuant to Continuing Education Regulations 114, new LPOs are not required to take clock hours in the year they are certified, but should submit the form if classes were taken, to be carried over to the next calendar year.

**Return this completed form by January 31 to:**

Limited Practice Board  
Office of the Administrator for the Courts  
PO Box 41170  
Olympia, WA 98504-1170

**NOTE: In accordance with Regulation 108(b), a special service fee of \$50 must be paid if this form is filed after January 31 and mailed to PO Box 41172, Olympia WA 98504-1172. The deadline for filing is April 30.**

9. Description of physical facilities (e.g., classroom or theater seating, availability of writing surface, etc.): \_\_\_\_\_
10. Method of evaluation of program (e.g., participant critique, independent evaluator, etc.): \_\_\_\_\_
11. Please complete "Outline of Course Presentation" on Page 3.

Sponsoring agency agrees (1) to allow the Limited Practice Board, a member thereof or such other person as it shall designate, to audit the program in question, (2) to maintain a list of all Limited Practice Officers actually attending the program and to **transmit such list to the Limited Practice Board 30 days following the presentation along with a copy of the completed evaluation**, and (3) if mailing labels are requested, to use the labels for mailing education program announcement only.

Sponsoring Agency or Limited Practice Officer

Check here if not for profit  
organization ☐

By: \_\_\_\_\_

Title: \_\_\_\_\_

12. Estimated number of attendees: \_\_\_\_\_

13. Contact person for information regarding course content:

\_\_\_\_\_ Telephone: \_\_\_\_\_

Contact person for information regarding registration:

\_\_\_\_\_ Telephone: \_\_\_\_\_

**NOTE: On the date of the continuing education activity, the sponsoring agency must provide a copy of the LPB course approval form to each LPO in attendance.**

Return this form along with \$25.00 to:

Limited Practice Board  
Office of the Administrator for the Courts  
PO BOX 41172  
Olympia WA 98504-1172

LPO Mailing Labels Requested: Yes ☐ No ☐

[illegible]